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W.P.(MD) No.26874 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD) No.26874 of 2024

Jahir Hussain

... Petitioner

-VS-

The Sub Registrar
Ambasamudram Sub Registrar Office
Tirunelveli District

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to impugned Refusal Check Slip in Refusal Number RFL/Ambasamudram/47/2024 dated 24.09.2024 was issued by the respondent and quash the same as illegal and consequently directed the respondent to register the petitioner's settlement deed dated 24.08.2024 in respect of the property in Ayan Nanjai Survey Number 114/7 (new Survey No. 114/7A) to the extent of 4.62 cents situated at Vagaikulam Village,



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Ambasamudram Taluk, Ambasamudram Sub Registration Circle,
Cheranmahadevi Registration District, within a time stipulated by this Court.

For Petitioner : Mr.A.Sankararamasubramanian

For Respondent : Mr.D.Sadiq Raja
Additional Government Pleader

ORDER

Mr.D.Sadiq Raja, learned Additional Government Pleader, takes
notice for the respondent.

2. With the consent of both parties, this writ petition is taken up
for final disposal at the admission stage itself.

3. This writ petition has been filed challenging the order dated
24.09.2024, passed by the respondent, refusing to register the settlement
deed, dated 24.08.2024, presented by the petitioner for registration.

4. The land in Survey No.114/7, New Survey No.114/7A, to an
extent of 4.62 Cents, situated at Vagaikulam Village, Ambasamudram Taluk,



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Ambasamudram Sub Registration Circle, Cheranmahadevi Registration District, was originally belonged to one Pechiyappan. The said Pechiyappan executed a settlement deed dated 18.05.2020 and registered as document No. 687 of 2020, in respect of the subject property in favour of his brother, namely, Muthuraj. In the meanwhile, the said Pechiyappan executed a gift deed, dated 01.06.2020, to the Special Officer, Vagaikulam Panchayat, in respect of the property in Survey No.114/7E, to an extent of 2.79 Cents, for the purpose of laying a public road and other public usage. Thereafter, the said Muthuraj obtained planning approval on 22.06.2020 from Vagaikulam Panchayat and thereafter, the said Muthuraj executed a sale deed dated 22.06.2020 and registered as document No.687 of 2020 in respect of the subject property in Survey No.114/7, New Survey No.114/7A in favour of the petitioner and his wife for a valid sale consideration. In pursuance to the approved plan, the petitioner constructed a house in the subject property and the house has also been assessed to the property tax. Thereafter, the petitioner had executed a settlement deed, dated 24.08.2024 in respect of his half share in the subject property in favour of his wife and presented the same before the respondent for registration. However, the respondent refused to register the settlement deed on the ground that the subject land is an



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unapproved one and there is a clear bar under Section 22-A of the Registration Act, 1908.

5. In similar circumstances, this Court, by order dated 11.09.2024 in W.P.(MD) No.21704 of 2024 **[Nagarajan vs. The Sub Registrar]**, has quashed the check slip and directed the respondent therein to register the document presented for registration. The relevant portion of the said order is extracted hereunder:

“4.This issue was elaborately discussed in the case of D.Rajamanickam Vs. The Sub Registrar, Salem (West) in W.P.No.426 of 2022, wherein this Court has held as follows:

“17. The clarification issued above would indicate that the bar contained under Section 22-A is only with regard to unapproved lay out which was formed without the permission for development from planning authority concerned and new roads or streets have been laid after the amendment and not in respect of the Unapproved Layout prior to the amendment came into being. Such view of the mater as the layout was formed in 2020 and several plots had already been sold, registration of settlement



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deed executed by the petitioner for the remaining extent of land retained and held by the petitioner in favour of his son cannot be refused. As already held such land can be used for any purposes other than housing development. Even any one of the adjacent land owners may wish to purchase such land for the purpose of using it as vacant land or for any other purpose other than housing development. Therefore, transfer of such land cannot be said to be totally prohibited, if transfer of such land is totally prohibited, it would certainly violate the constitutional right guaranteed under Article 300-A of the Constitution of India. The very object of introducing Section 22- A by way of Tamil Nadu Act is only to restrict conversion of agricultural land or any other land as unapproved house sites without the permission for development of such land from planning authority concerned. Therefore, bar contained under Section 22-A cannot be applied in a mechanical fashion and registration cannot be refused and restraining the owner of such land from using the land for any other purposes other than housing development.”



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5. In such view of the matter, the impugned refusal check slip issued by the respondent dated 28.08.2024 is quashed. The respondent is directed to register the document presented by the petitioner within a period of one week from the date of receipt of a copy of this order.”

6. At this juncture, it would be relevant to refer the proviso to Section 22-A of the Registration Act, 1908, which is extracted hereunder:

“22-A. Refusal to register certain documents.-

(1) ...

(2) ...

Provided that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as house site.”

7. As per the above proviso, a land can be registered even the same is an unapproved one. Further, the Government of Tamil Nadu has issued a clarification under letter Ref Letter No.359/J2/2020-1, dated 16.03.2020, to the letter of the Inspector General of Registration letter dated 03.01.2020 in reference Letter No.52889/C1/2019, whereby it is made clear that 'layout' means (i) division of land into plots exceeding 8 (eight) in numbers in Chennai Metropolitan Planning Area; (ii) division of land into plots by



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introducing a new road or street in areas other than Chennai Metropolitan Area. Therefore, as long as there was no new road or street introduced, there is no bar for registration of sale under sub-section (2) of Section 22-A of the Registration Act, 1908. Further, the said clarification also makes it clear that the bar contained in Section 22-A of the Registration Act, 1908 is only with regard to unapproved layout, which was formed without the permission for development from the Planning Authority concerned and new roads or streets have been laid after the amendment and not in respect of the unapproved layout prior to the amendment into effect.

8. In the case on hand, admittedly, the petitioner's vendor obtained planning permission to construct a house in the subject land. After purchase of land, the petitioner constructed a house thereon and settled his half share over the subject land in favour of his wife. Therefore, the bar under Section 22-A of the Registration Act, 1908 is not applicable to the case on hand. Therefore, the impugned check slip, dated 24.09.2024, issued by the respondent, cannot be sustained and it is liable to be quashed.



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9. Accordingly, this writ petition is allowed and the impugned check slip, dated 24.09.2024, issued by the respondent, is quashed. The petitioner is directed to re-present the settlement deed before the respondent for registration within a period of one week from today and on receipt of the same, the respondent is directed to register the settlement deed and release the same forthwith, if it is otherwise in order. No costs.

12.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:
The Sub Registrar,
Ambasamudram Sub Registrar Office,
Tirunelveli District.



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G.K.ILANTHIRAIYAN, J.

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