



W.P.(MD)No.28514 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.28514 of 2022
and W.M.P.(MD)Nos.22524 & 22525 of 2022

M.N.Sulthan Alawdeen

... Petitioner

Vs.

1.The Sub Registrar,
Office of the Sub Registrar Ilayankudi,
Ilayankudi,
Sivaganga District.

2.M.N.Oli Mohamed

.... Respondents

(R2 is impleaded vide Court order dated 01.02.2023
in W.M.P.(MD)No.1693/2023 in W.P.(MD)No.28514/22)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned refusal check slip issued by the respondent in his proceedings in No.RFL/Ilayankudi/22/2022, dated 30.03.2022 and quash the same as illegal and consequentially to direct the respondent to register the sale deed in temporary No.TP/115541284/2022 dated 29.03.2022 presented on 30.03.2022 within the period that may be stipulated by this Court.



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For Petitioner : Mr.V.Karthikraja
for M/s.Ajmal Associates

For Respondents : Mr.C.Satheesh,
Govt Advocate for R1
Mr.I.Romeo Roy Alfred for R2

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned refusal check slip issued by the first respondent in his proceedings in No.RFL/Ilayankudi/22/2022, dated 30.03.2022 and quash the same as illegal and consequentially to direct the first respondent to register the sale deed in temporary No.TP/115541284/2022 dated 29.03.2022 presented on 30.03.2022 within the period that may be stipulated by this Court.

2. It is the case of the Writ Petitioner that when the petitioner presented a sale deed for registration, the first respondent refused to register the same on the ground that a civil suit is pending. Challenging the same, the petitioner has filed this Writ Petition.



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3. The learned counsel appearing for the petitioner submitted that the petitioner has undivided 2/9th share in the subject property and due to financial crisis, the petitioner wants to sell the property. Hence, he executed a sale deed in favour one Seeni Mohamed. When the said sale deed was presented for registration, the same was refused to be registered on the ground that a civil suit in O.S.No.201 of 2021, on the file of Subordinate Court, Manamadurai, which was filed by the second respondent, who is the brother of the petitioner, is pending. The learned counsel for the petitioner further submits that mere pendency of a civil suit will not be a ground for refusing to register the sale deed. Hence, the impugned order is liable to be set aside.

4. The second respondent has filed a counter affidavit, in which it is stated that he has filed a suit for partition in O.S.No.201 of 2021 and the same is pending. The second respondent has also admitted that the petitioner is also having 2/9th share in the subject property. According to him, the petitioner has not appeared in the partition suit, which led to *ex parte* proceedings. Hence, opposed this petition.

5. Heard the submissions made by the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the first respondent



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and the learned counsel appearing for the second respondent and perused the materials available on record.

6. This issue is no longer *res integra*. This Court already in several judgments has held that mere pendency of a civil suit will not be a ground for refusing to register the document. It is at the risk of the party to purchase the property during the pendency of the suit. Such transfer is always subject to the result of the suit. Therefore, mere pendency of a civil suit will not be a ground for refusing to register the document. This issue has already been elaborately discussed by this Court in ***Subramani Vs. 1.The Sub-Registrar, Office of the SubRegistrar, Rasipuram. 2. The Inspector General of Registration, Chennai [W.P.No.11056 of 2024, dated 26.04.2024]***.

7. Therefore, following the said decision, the impugned order passed by the first respondent dated 30.03.2022 is set aside. Consequently, the first respondent is directed to register the sale deed dated 29.03.2022 presented by the petitioner on 30.03.2022, within a period of one week from the date of receipt of a copy of this order.



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8. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

04.09.2024

NCC : Yes/No
Index : Yes/No

vsm

To

The Sub Registrar,
Office of the Sub Registrar Illayankudi,
Illayankudi,
Sivaganga District.



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N.SATHISH KUMAR, J.

vsm

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