



W.P.(MD)No.29407 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **09.12.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.29407 of 2024

1.Kasirajan
2.K.Ganesan

... Petitioners

-Vs-

The Sub Registrar,
Thamaraipatti (E) Chittampatti
Sub Registrar Office,
Madurai 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 the impugned refusal check slip in RFL / Thamaraipatti / 28/ 2024 dated 18.11.2024 and quash the same as illegal and consequently, to direct the respondent to register the sale deed presented by the petitioners within a stipulated time fixed by this Court.

For Petitioners : Mr.V.Kishore Kumar

For Respondent : Mr.M.Sarangan,

Additional Government Pleader



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ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

2.This Writ Petition has been filed, challenging the refusal check slip issued by the respondent dated 18.11.2024, thereby, refused to register the sale deed, which was presented for registration in respect of the subject house plot.

3.The petitioners had purchased the properties comprised in Re.Survey No.19/3D to an extent of 3 acres 4 cents and Re.Survey No.33/2 to an extent of 2 acres 56 cents in UDR Patta No.263 (totally 5 acres 60 cents) situated at Poolampatti Village, Madurai North Taluk and now East Taluk, Madurai District on 29.05.2008 from one Muthukaruppan through a registered sale deed in Document No.4023/2008. Thereafter, on 31.07.2008, they had purchased the properties comprised in Re.Survey No.19/1 to an extent of 16 cents, Re.Survey No.19/3B to an extent of 2 acres 2 cents, Re.Survey No.20/3 to an extent of 1 acre 32 cents, Re.Survey No.20/6 to an extent of 34 cents and Re.Survey No.20/9 to an extent of 12 cents in UDR Patta No.263, (totally 3 acres 96 cents) situated at Poolampatti Village, Tamaraipatti, Madurai North Taluk and now, East Taluk, Maduria District. Thereafter, they classified the



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above said properties as 360 housing plots in the name and style of Vaigai Nagar and many plots had been sold to the customers from the year 2008 to 2013. However, it was not an approved layout. While being so, the petitioners sold out the house plots in the year 2024 and executed sale deeds in favour of their respective purchasers in respect of the plot numbers and presented the same for registration on 18.11.2024. However, it was refused to register by the respondent on the ground that the subject plots are unapproved plots and there is a bar under Section 22-A of the Registration Act, 1908 (hereinafter referred to as 'the Act').

4.The learned counsel appearing for the petitioners would submit that the layout was formed in respect of the entire extent of the land in the year 2008 and subsequently, so many house plots were sold in favour of third parties. Therefore, there is absolutely no bar under Section 22A-of the Act. He also relied upon the judgment of this Court dated 12.11.2024 made in W.P.(MD)No. 26849 of 2024, where this Court held that the bar contained in Section 22-A of the Act is only with regard to unapproved layout, which was formed without permission for development from the planning authority concerned and new roads or streets have been laid after the amendment and in respect of the unapproved layout prior to the amendment into effect.



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WEB COPY 5. Heard the learned counsel on either side and perused the materials available on record.

6. On perusal of the documents, it is seen that admittedly, the layout was formed in respect of the total extent of the land purchased by the petitioners. However, it is not an approved layout. Till 2013, the petitioners had sold out the house plots to various third persons. While being so, Section 22-A of the Act was inserted by Tamil Nadu Amendment Act 2 of 2009 with effect from 20.10.2016. It is relevant to extract Section 22-A of the Act hereunder:-

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

Notwithstanding anything contained in this Act, the registering officer shall refuse to register any of the following documents, namely:—

(1) instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease,—

(i) belonging to the State Government or the local authority or Chennai Metropolitan Development Authority established under section 9-A of the Tamil Nadu Town and Country Planning Act, 1971;

(ii) belonging to, or given or endowed for the purpose of, any religious institution to which the Tamil Nadu Hindu Religious



and Charitable Endowments Act, 1959 is applicable;

(iii) donated for Bhoodan Yagna and vested in the Tamil Nadu State Bhoodan Yagna Board established under section 3 of the Tamil Nadu Bhoodan Yagna Act, 1958; or

(iv) of Wakfs which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995, unless a sanction in this regard issued by the competent authority as provided under the relevant Act or in the absence of any such authority, an authority so authorised by the State Government for this purpose, is produced before the registering officer;

(2) instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such land from planning authority concerned:

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.

Explanation I.—For the purpose of this section ‘local authority’ means,—

(i) any Municipal Corporation constituted under any law for the time being in force; or

(ii) a Municipal Council constituted under the Tamil Nadu District Municipalities Act, 1920 ; or

(iii) a Panchayat Union Council or a Village Panchayat constituted under the Tamil Nadu Panchayats Act, 1994 ; or

(iv) any other Municipal Corporation, that may be constituted under any law for the time being in force.

Explanation II.—For the purpose of this section



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‘planning authority’ means the authority constituted under section 11 of, and includes the Chennai Metropolitan Development Authority established under section 9-A of the Tamil Nadu Town and Country Planning Act, 1971;

(3) instrument relating to cancellation of sale deeds without the consent of the person claiming under the said sale deed.”

7. Though the proviso to Section 22-A(2) of the Act says 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, since the petitioners are the developers and it is the first sale from the total extent of 3 acres 96 cents, the proviso to Section 22-A(2) is not applicable to the case on hand. That apart, the Regularization of Unapproved Plots and Layouts Rules, 2017 (hereinafter referred to as 'the Rules') were made by G.O.(Ms)No.78, Housing and Urban Development [UD4(3)] Department, dated 04.05.2017. The Rule 3 of says about cut off date for considering the regularization of unapproved plots and layouts. It is relevant to extract Rule 3 hereunder:-

“3.Cut-off date for considering regularisation of unapproved plots and layouts.— Only those unapproved layouts where a part or full number of plots have been sold through a registered sale deed as on 20th October, 2016 shall be considered for regularization under these rules. Similarly, all plots including



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unsold ones are eligible for regularization in layouts where at least a part of the total number of plots have been sold through a registered sale deed as on 20th October, 2016. Individual plot in a sub-division registered by a sale or title deed as on 20th October, 2016 shall also be eligible for regularization. As proof and evidence, the plot holder or the layout promoter is required to furnish copies of the sale deed or title deed for the plots sold. Agreement for sale or General Power of Attorney shall not be considered as evidence for proof of sale of plot.”

8.From the above, it is clear that all plots including unsold ones are eligible for regularization in layouts, where at least a part of the total number of plots have been sold through a registered sale deed as on 20.10.2016 and individual plot in a sub-division registered by a sale or title deed as on 20.10.2016 shall also be eligible for regularization. Therefore, the subject plot, which is now stopped for registration, is required for regularization. It is being the first sale, the judgment cited by the learned counsel for the petitioners is not applicable to the case on hand.

9.On perusal of the encumbrance certificate in respect of the entire properties, it is seen that there are no direct sale deeds from the developers after 20.10.2016. The petitioners are being the developers and the subject plot in



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this Writ Petition is the first sale to the third party. Therefore, the Rule 3 is very much applicable to the case on hand and there is a bar under Section 22-A of the Act for registration in respect of any of the plots, which is unapproved one.

10.Further, the Division Bench of the Principal Seat of Court in W.P.No.22618 of 2022, dated 02.09.2022 has held that in order to avoid mushroom growth of unapproved layouts and new plots, amendment came into force and there is a bar under Section 22-A of the Act to register the unapproved plots.

11.In such view of the matter, this Court is of the view that the respondent has rightly refused to register the sale deed, which was presented by the petitioners for registration by the impugned order dated 18.11.2024.

12.Accordingly, this Writ Petition is dismissed. However, the petitioners are at liberty to sell the plots, after regularization of their respective plots. No costs.

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(12/14)

Index : Yes / No
NCC : Yes / No

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TO:-

The Sub Registrar,
Thamaraipatti (E) Chittampatti
Sub Registrar Office,
Madurai District.



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G.K.ILANTHIRAIYAN, J.

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