



W.P.(MD)No.29593 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.29593 of 2024

and

W.M.P.(MD)No.24985 of 2024

D.Anusuiya

... Petitioner

-Vs-

The Joint Sub Registrar No.3,
O/o. the Joint Sub Registrar No.3,
Trichy.

... 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 refusal check slip issued by the respondent vide RFL /3 Joint Sub Registrar Trichy / 153/ 2024 dated 20.11.2024 and quash the same as illegal and consequently, to direct the respondent to register the document presented by the petitioners within a stipulated time fixed by this Court.

For Petitioner : Mr.B.Jameelarasu

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 20.11.2024, thereby, refused to register the sale deed on the ground that the subject property is unapproved one.

3. Heard learned counsel for the petitioner and the learned Additional Government Pleader for the respondent.

4. The property, ad measuring 1 acre 14 cents, comprised in T.S.No.4042, situated at old Block No.34, old Ward No.6, Tharanallur village, Trichy, originally belonged to one Ameena Bivi. She had sold the subject property in favour of one Sappani by a registered sale deed dated 10.02.1992 in Doc.No.18 of 1992. The said Sappani converted the subject property into 38 house plots and sold out 37 house plots to various third persons, except plot No.9C. In the plot No.9C to the extent of 753 sq.ft., the said Sappani had constructed a building and obtained electricity connection. Thereafter, he sold the same in favour of the petitioner in sale deed dated 20.11.2024 and it was presented for



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registration before the respondent. However, it was refused to register on the ground that the said house plot is unapproved one.

5. The learned counsel for the petitioner would submit that in the entire layout, except the plot No.9C, all other house plots were sold out in favour of the several persons. The refusal of registration of the subject property would amount to violation of Constitutional rights guaranteed under Article 300-A of the Constitution of India and further, it is nothing but discrimination. As such, the respondent ought to have register the same.

6. On perusal of the refusal check slip, it reveals that the subject property is unapproved one. Admittedly, the entire layout was unapproved one and the house plot No.9C ad measuring 753 sq.ft is also one among the same.

7. It is relevant to extract the *proviso* to Section 22-A of the Registration Act, 1908 (hereinafter referred to as 'the Act'), which was inserted by the Tamil Nadu Amendment Act, 2 of 2009 with effect from 20.10.2016:

“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:—



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(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



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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 ‘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.”

8. Though the *proviso* to Section 22-A(2) of the Act says that the house site without such permission may be registered if it is shown that the same house site has been previously registered as house site. Since it is the first sale of the house site in plot No.9C, 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 says about cut off date for considering the



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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 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.”

9. Therefore, only after regularisation, the house plots can be registered. Admittedly, the subject property is unapproved one and its registration was rightly refused by the respondent. Further, it is the first sale of the subject property. Therefore, *proviso* to Section 22-A(2) of the Act is also not applicable to the subject property.

10. The Hon'ble Division Bench of this Court held in W.P.(MD)No.22618



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of 2022 dated 02.09.2022 in order to avoid mushroom growth of unapproved layouts and plots, the amendment came into force and there is a bar under Section 22-A(2) of the Act, to register the unapproved plots. Therefore, this Court does not find any infirmity or illegality in the refusal check slip issued by the respondent. Hence, this Writ Petition is liable to be dismissed.

11. Accordingly, this Writ Petition is dismissed. However, the petitioner is at liberty to purchase the subject house plot, after regularization. No costs. Consequently, connected miscellaneous petition is closed.

09.12.2024

Index : Yes / No
NCC : Yes / No

apd

TO:-

The Joint Sub Registrar No.3,
O/o. the Joint Sub Registrar No.3,
Trichy.



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G.K.ILANTHIRAIYAN, J.

apd

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