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W.P.No.11959 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2025

CORAM:

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P.No.11959 of 2025

Santhosh

... Petitioner

Vs.

1.The Sub Registrar,
Office of Sub Registrar,
Moolanur,
Tiruppur District.

2.Canara Bank,
Rep. by its Manager,
Moolanur Branch,
Dharapuram Taluk,
Tiruppur District.

*(R2 impleaded as per order dated 28.04.2025 in
W.M.P.No.16576/2025 in W.P.No.11959/2025
by this Court).*

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of order of refusal check slip in Refusal Number:RFL/Moolanur/16/2025 dated 25.03.2025 passed by the Respondent herein and quash the same and consequently direct the



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Respondent to register the document of Sale Deed dated 25.03.2025 to be represented by the petitioner herein.

For Petitioner(s) : Mr.N.Ponraj

For Respondent(s) : Mr.Abishek Murthy for R1
Government Advocate
Mr.M.A.Abdul Wahab for R2
for M/s.K.V.Subramanian Associates

ORDER

In view of the order that this Court proposes to pass and also the limited relief that is sought to be granted, notice to 2nd respondent is dispensed with.

2.The present writ petition is filed refusing to register the Sale Deed dated 25.03.2025 in respect of land measuring 1.23 acres in R.S.No.279/7, 0.91 acres in R.S.No.508/A, 0.84 acres in R.S.No.293/10 and 2.73 1/2 acres in R.S.No.508/B1 on the premise that there is an existing mortgage.

3.It is submitted by the learned counsel for the petitioner the fact that there is an existing mortgage cannot be a reason for refusing registration of the Sale Deed. In this regard, he placed reliance on a



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Division Bench judgment of this Court in ***N.Ramayee vs. Sub-Registrar,***

Registration Department and another reported in **2020 (6) CTC 697**

wherein it was held as under:

"47...Further, insisting a no objection from mortgagee before registration is also against the very substantive provision of law. If any property is sold with existing mortgage, the transferee steps into the shoes of mortgagor. He has the right to redeem the property by paying the mortgage money. Therefore in the name of regulating the registration, any circular which is in the nature of violating the substantive provision of law, which deals with the transfer of property, then such circular cannot stand in the eye of law. If the contention of learned Advocate General that without seeking declaration and cancellation of the agreement of sale, subsequent agreement or transaction cannot be registered, is accepted then such restriction, in fact, infringes the very Constitutional right of the citizen provided under Article 300 A of the Constitution.

48. We are of the view that except as provided in the Registration Act and any other statute, the Registrar has no power to refuse to



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register a document. Though the object of the Act is to prevent fraud, such occasion arises only where some private properties are notified under the Tamil Nadu Private Forest Act. In such case, sale of such property without permission of the Collector of the District is void. Only when such notification is available in respect of any property, the Registrar can verify whether the sanction of the Collector is obtained or not. Similarly, whenever properties have been declared as forest land or elephant corridor, etc., and the notification is available with the Registrar, based on the above notification he can exercise power. Except the above, the Registrar has no power to refuse to register the document.

4.Mr.Abishek Murthy, learned Government Advocate appearing on behalf of 1st respondent and Mr.M.A.Abdul Wahab, learned counsel appearing on behalf of 2nd respondent.

5.On this being pointed out, learned Government Advocate for 1st respondent would submit that the petitioner may be directed to represent the Sale Deed and the same would be registered if it is otherwise in order. If for any reason, there is a need for refusal of



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registration of the Sale Deed, they would do so after assigning reason,

which was agreed to by the learned counsel for the petitioner.

6.In view thereof, the Writ Petition stands disposed of with a direction to the 1st respondent to register the Sale Deed dated 25.03.2025 if it is otherwise in order. It is made clear that this Court has not expressed any views with regard to the merits of the case and it is open to the concerned respondent to consider the matter on its own merits and in accordance with law.

7.It is also open to 2nd respondent Bank to work out its remedy in the manner known to law. No costs.

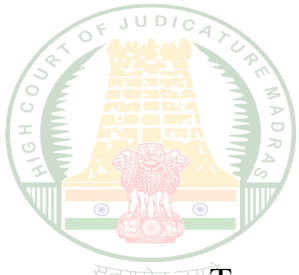
16.06.2025

Index : Yes/ No

Speaking (or) Non Speaking Order

Neutral Citation: Yes/No

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To
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Tiruppur District.

2.The Manager,
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MOHAMMED SHAFFIQ, J.

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