



WEB COPY



WP.No.16973 of 2024

In the High Court of Judicature at Madras

Dated : 05.2.2025

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.16973 of 2024

M/s.Maaran Property rep.by its
Managing Partner Ramalingam

...Petitioner

Vs

- 1.The District Registrar,
Coimbatore Zone, No.102,
State Bank Road, District
Collector Office Campus,
Coimbatore-641018.
- 2.The Sub-Registrar, No.117,
Railway Feeder Road,
Periyanaickenpalayam,
Coimbatore-641301.
- 3.The Assistant Commissioner of
Police, Coimbatore City Crime
Branch II, No.62, Old Post
Office Road, Collector Office,
Gopalapuram, Coimbatore.
641018.
- 4.The Tax Recovery Officer-I,
Income Tax Department,
67A, Race Course Road,
Gopalapuram, Coimbatore.
(impleaded vide order dated
21.11.2024 in WMP.No.22125
of 2024 by PTAJ)
- 5.Mr.G.C.Sivaraj
(impleaded vide order dated



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21.11.2024 in WMP.No.24676
of 2024 by PTAJ)

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 2nd respondent in refusal cheque slip bearing Refusal No.RFL/Periyanayakkanpalam/58/2024 dated 07.6.2024 along with annexure and consequently direct the 2nd respondent to admit and register the sale agreement assigned with a temporary number TP/183721166/2024.

For Petitioner	:	Mr.R.N.Amarnath
For R1 & R2	:	Mr.B.Vijay, AGP
For R3	:	Mr.V.J.Priyadarsana, GA (Crl.Side)
For R4	:	No appearance
For R5	:	Mr.V.V.Kathiresan

ORDER

This writ petition has been filed challenging the refusal check slip dated 07.6.2024 issued by the second respondent and for a consequential direction to the second respondent to entertain and register the sale agreement executed by the petitioner.

2. Heard the learned counsel for the petitioner, the learned Additional Government Pleader appearing for respondents 1 and 2, the



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learned Government Advocate (Crl.Side) appearing for the third respondent and the learned counsel appearing for the fifth respondent.

3. The case of the petitioner is as follows :

The petitioner is the owner of the property measuring 7 cents in S.No.19/1A1C, Sarkarsamakulam Village, Annur Taluk, Coimbaore District by virtue of a sale deed dated 23.12.2023 registered as doc.No.25600 of 2023 on the file of the second respondent. The petitioner wanted to sell the subject property and hence, entered into a sale agreement dated 07.6.2024. When the document was presented for registration, the second respondent, through the impugned check slip dated 07.6.2024, refused to register the sale agreement on the ground that he received a communication from the third respondent dated 22.4.2024 to the effect that no document should be entertained since an investigation is pending. Hence the writ petition.

4. The learned counsel appearing for the fifth respondent submits that accused persons were involved in fabricating documents and thereby depriving the fifth respondent of his properties. Therefore, it is contended that if such registration is permitted, it will further complicate the issue.



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5. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned refusal check slip.

6. In the considered view of this Court, the writ petition does not pertain to the grievance that was expressed by the fifth respondent. Instead, this writ petition pertains to the power and jurisdiction of the second respondent to act upon the communication received from the third respondent and the refusal to register the document presented by the petitioner.

7. The Criminal Procedure Code did not give any power to the police to attach or seize an immovable property. Law on this issue is too well settled. Section 102 of the Criminal Procedure Code confined itself only to movable properties. This position has changed by virtue of coming into force of the BNSS, 2023. On the date when the communication was given by the third respondent to the second respondent, the third respondent did not have power to prevent the parties from dealing with the subject property. If any person is to be deprived of his right to deal with a property, it can be done only with the authority of law. Such a right has been guaranteed under Article 300A of The Constitution of India.



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8. If the third respondent did not have the authority of law to restrain any person from dealing with the property, his communication sent to the second respondent will be construed as non est in the eye of law. Therefore, the second respondent, acting upon the communication of the third respondent and refusing to register the document, will also be construed as illegal.

9. It is made clear that this Court has not gone into the merits of the right and title over the subject property and the entitlement of the fifth respondent over the subject property. This issue has to be agitated elsewhere and not in this writ petition.

10. In the light of the above discussions, the writ petition is allowed, the impugned refusal check slip dated 07.6.2024 issued by the second respondent is hereby set aside and there shall be a direction to the second respondent to entertain the document presented by the petitioner and register the same if it is otherwise in order. No costs.

05.2.2025

RS



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N.ANAND VENKATESH,J

RS

To

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