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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-10-2025

CORAM

**THE HONOURABLE MR JUSTICE S. M. SUBRAMANIAM
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ**

WP No. 21941 of 2025

S.Indirani

Petitioner(s)

Vs

The Sub Registrar
Office of the Sub Registrar,
Kunnathur
Tiruppur District.

Respondent(s)

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records relating to the refusal check slip dated 23.04.2025 in RFL/Kunnathur/7/2025 issued by the respondent herein and quash the same and consequently direct the respondent to register the Gift Deed dated 23.04.2025 executed by the petitioner on re-presentation.



For Petitioner(s): Mr.C.Munusamy

For Respondent(s): U.Baranidharan
Special Government Pleader

ORDER

(Order of the Court was made by S.M.Subramaniam J.)

The writ on hand has been instituted challenging the refusal check slip dated 23.04.2025 issued by the Sub Registrar, Kunnathur.

2. The reason stated in the refusal check slip is that the subject property involved in the instrument presented for registration has been already sold. Therefore, the document presented has been returned.

3. The refusal check slip issued by the Registering Authority per se would not provide cause for institution of writ proceedings.

4. This Court is of the considered view that Writ Court cannot decide disputed facts relating to civil rights. Power of judicial review of High Court under Article 226 of the Constitution of India is to ensure the processes



through which a decision has been taken are in consonance with statutes and rules, but not the decision itself. Therefore, any findings touching upon civil rights in a writ order may cause prejudice to parties litigating civil rights and result in miscarriage of justice. Parties, at the first instance are expected to exhaust statutory remedy contemplated under the Act and in the present case, the scheme contemplated under the Registration Act is to be scrupulously followed.

5. Documents presented for registration are scrutinized by Registering Authority, and a decision is taken either to register the document or refuse registration. A slip has been issued to presentant of the document. Refusal slip per se would not provide a cause to institute a writ proceeding, since an adjudication/inquiry is contemplated under Section 71 of the Registration Act before Registering Authority.

6. Part XII of Registration Act provides “Of Refusal to Register”. Section 71 of the Act enumerates “Reasons for refusal to register to be recorded.—(1) Every Sub-Registrar refusing to register a document, except on the ground



that the property to which it relates is not situate within his sub-district, shall make an order of refusal and record his reasons for such order in his Book No.2, and endorse the words “registration refused” on the document; and, on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded. (2) No registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered”.

7. A cursory reading of above provision would indicate that Registering Authority shall make an order of refusal and record reasons in Book No.2, and endorse the words “registration refused” on the document. Any person on receipt of refusal slip is at liberty to submit explanations, along with documents, if any to the Registering Authority, who in turn has to conduct an inquiry by affording opportunity to the presentant/representative of document. After conducting inquiry, Registering Authority has to register the document or pass a reasoned order for refusal to register under Section 71 of the Registration Act.



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8. If the document presented is refused and a reasoned order refusing to register is passed, the said order is appealable under Section 72 of the Registration Act. Section 72 contemplates “Appeal to Registrar from orders of Sub-Registrar refusing registration on ground other than denial of execution”.

9. Therefore, an aggrieved person may prefer an appeal under Section 72 before District Registrar to conduct an inquiry, by affording an opportunity to parties, and thereafter pass final orders, issuing directions to Registering Authority to register the document or affirm refusal order passed by Registering Authority under Section 71 of the Act.

10. Section 77 of the Registration Act, 1908, denotes “Suit in case of order of refusal by Registrar.—(1) Where the Registrar refuses to order the document to be registered, under Section 72 or a decree Section 76, any person claiming under such document, or his representative, assign or agent, may, within thirty days after the making of the order of refusal, institute in the Civil Court, within the local limits of whose original jurisdiction is situate the



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office in which the document is sought to be registered, a suit for a decree directing the document to be registered in such office if it be duly presented for registration within thirty days after the passing of such decree. (2) The provisions contained in sub-sections (2) and (3) of section 75 shall, mutatis mutandis, apply to all documents presented for registration in accordance with any such decree, and, notwithstanding anything contained in this Act, the documents shall be receivable in evidence in such suit”.

11. Under Section 77 of the Act, an aggrieved person from and out of the orders passed by Registering Authority and Appellate Authority under Sections 71 and 72 respectively may institute a civil suit for appropriate relief before Civil Court within local limits of whose original jurisdiction the office in which document is sought to be registered. A suit for a decree directing document to be registered may be sought for. Scheme under Registration Act provides an effective mechanism for redressal of grievances against refusal of registration of a document by the Registering Authority under the Act. Exhausting alternate remedy contemplated under the Act is of paramount importance.



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12. Factual findings by Registering Authority and Appellate Authority could be of greater assistance to Courts in exercising powers to render justice to litigants. The legislative intention in providing an alternate remedy under the Act need not be undermined by Courts by entertaining writ petitions for adjudication of disputed issues under Article 226 of the Constitution of India, which is not desirable.

13. Pertinently, at the initial stage of issuance of a refusal slip by Registering Authority, civil rights or right of the presentant of a document for registration cannot be determined either by Registering Authority or by Writ Court. It is a preliminary stage, where they are bound to call for explanation from the presentant of document, along with supportive documents, if any, and an adjudicatory process is to be undertaken to arrive a final decision, enabling an aggrieved person to approach the Appellate Authority and thereafter Civil Court under Sections 72 and 77 of the Act respectively.

14. Under Sections 71 and 72 of the Registration Act, neither the



Registering Authority nor the Appellate Authority is empowered to decide title, ownership, or civil rights between the parties. Extent of inquiry is to be confined so as to find out whether document presented under the Act can be registered or to be refused. Therefore, Registering Authority is not empowered to go into merits of the case and decide title, ownership, or civil rights between the parties.

15. Any inquiry or findings made thereunder are to be confined only to an extent of registration of a document, and findings by Registering Authority or Appellate Authority cannot be taken into consideration for the purpose determining civil rights between the parties. The Hon'ble Supreme Court of India in ***K.Gopi vs. The Sub Registrar and Others***¹, paragraph 15 of the judgment reads as under:

“15. The registering officer is not concerned with the title held by the executant. He has no adjudicatory power to decide whether the executant has any title. Even if an executant executes a sale deed or a lease in respect of a land in respect of which he has no title, the registering officer cannot refuse to register the document

¹ 2025 INSC 462



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if all the procedural compliances are made and the necessary stamp duty as well as registration charges/fee are paid. We may note here that under the scheme of the 1908 Act, it is not the function of the Sub-Registrar or Registering Authority to ascertain whether the vendor has title to the property which he is seeking to transfer. Once the registering authority is satisfied that the parties to the document are present before him and the parties admit execution thereof before him, subject to making procedural compliances as narrated above, the document must be registered. The execution and registration of a document have the effect of transferring only those rights, if any, that the executant possesses. If the executant has no right, title, or interest in the property, the registered document cannot effect any transfer.”

16. Therefore, it is amply clear that the competent authorities under Registration Act have no jurisdiction to adjudicate title, ownership, or decide civil rights between parties. Any reference or findings made relating to a document presented for registration or supportive documents are considered only for the limited purpose of establishing a right to register document under the Registration Act. Any findings made by competent authority would not



affect the rights of parties to establish their case independently before Civil

Courts based on documents and evidences available on record.

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17. The petitioner is at liberty to submit his objections/explanations along with the documents if any to the Registering Authority enabling him to conduct an inquiry and pass recent order under Section 71 of the Act if the grievances of the petitioner are not redressed the petitioner may prefer an appeal under Section 72 of the Act before the Appellate Authority. Thereafter, still aggrieved he may file a civil suit under Section 77 of the Act.

18. If the document presented for registration is returned back to the presentant, then the presentant is at liberty to re-present the document along with explanations and supportive documents, if any, to the Registering Authority, enabling him to conduct an inquiry and pass recent order under Section 71 of the Act either registering the document or to pass order under Section 71 for refusal to register

19. At the outset, the scheme contemplated under the Registration Act



is to be followed for the purpose of redressal of grievances and thus, the

petitioner is at liberty to exhaust the remedy contemplated under the Act.

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20. Accordingly, the Writ Petition stands disposed of. No costs.

(S.M.SUBRAMANIAM J.)(MOHAMMED SHAFFIQ J.)

28-10-2025

Index:Yes/No

Speaking/Non-speaking order

Neutral Citation:Yes/No

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To

The Sub Registrar

Office of the Sub Registrar,

Kunnathur

Tiruppur District.



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