



W.P. No.22708 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2025

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.22708 of 2025

Vijay

Petitioner(s)

Vs

The Sub Registrar,
Dhadhagapatti,
Salem District.

Respondent(s)

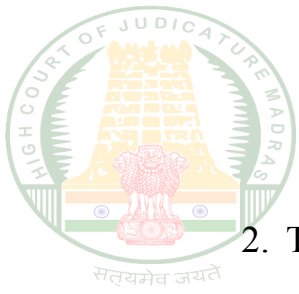
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impuged Refusal Check Slip in No.RFL/Dhadhagapatti/book2/01 dated 11.06.2025 issued by the respondent and quash the same and consequently direct the respondent to register the power of attorney presented by the petitioner

For Petitioner(s) : Mr.L.Ramanathan

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

ORDER

By consent of learned counsel on both sides, this writ petition is taken up for final disposal at the admission stage itself.



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2. The present writ petition is filed praying for a writ of certiorarified Mandamus challenging the refusal slip dated 11.06.2025 whereby the 4th respondent refused to register the power of attorney on the premise that a Suit is pending in respect of the subject property in O.S.No.148 of 2022 and that an agreement for sale was earlier entered into and the same is reflected in the encumbrance certificate.

3. It is submitted by the learned counsel for petitioner that mere pendency of a Suit in the absence of an injunction or interim order by the competent Civil Court cannot be a reason for refusing registration and that mere agreement for sale being reflected in the encumbrance certificate also cannot be a reason for refusing registration.

4. Learned counsel for petitioner would place reliance on the following judgments of the Hon'ble Supreme Court:

i) N.Ramayee vs. Sub-Registrar, Registration Department and another
reported in ***(2020) 6 CTC 697***:

“46. Accordingly, we answer the reference as follows:

If an agreement for sale is registered in respect of immovable property, the same will not be a bar for the owner of the property to effect subsequent transfers in respect of the same property. The Registrar has no right to refuse to register the document, except the



documents relating to immovable properties mentioned in Section 22-A of the Tamil Nadu Act and as contemplated under Rule 162 of the Registration Rules.

....

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 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.

49. As already indicated, the purpose of registration is only to give a public notice. It is for the buyer or subsequent transferee to make reasonable enquiry. Doctrine of caveat emptor will also apply to every transfer. It is for them to verify the title of the property by making reasonable enquiry. At any event, subsequent transfer will always be subject to the rights already created. Therefore, it cannot be said that merely because agreement for sale is registered without obtaining decree of declaration that such agreement is void, subsequent transfer is prohibited and cannot be registered. We hold that as discussed in our judgment, Registrar has no right to refuse to register the subsequent document on the basis that agreement of sale was already registered in respect of same property. Accordingly, the reference is answered. Post the writ petition in W.P. No. 674 of 2020 before the learned single judge for disposal.”

ii) Order of this Court in W.P.No.14688 of 2024 dated 07.06.2024:

“5. Despite directions of this Court to follow the above dictum scrupulously, still, the authorities concerned are not following the same and actually driving the parties from pillar to post. Such an attitude is nothing, but total non-application of mind by the authorities. If this trend continues and the Government is not taking the matter seriously, it will lead to lawlessness in the



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State, as if the Registering Authority has a separate legislation and control over all the transactions. It is noted that the transaction is controlled by Transfer of Property Act and not by Registration Act. Without understanding the basic principle, the registering authorities are passing orders in a callous manner. Unless the guidelines already issued in this regard in Subramani (supra), is followed throughout the State, this Court is of the definite view that the registering authorities will create lawlessness in the State.

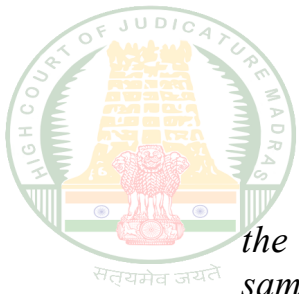
6. Hence, the impugned order passed by the 2nd respondent is set aside and the 2nd respondent is directed to register the Settlement Deed of the petitioner, within a week-s time from the date of receipt of a copy of this order.

With the above direction, this writ petition is allowed. No costs."

iii) Vadamugam Vellode NalukaraiNattu Goundergal Sangam vs. Inspector

General of Regirration, in W.P.No.12585 of 2020 dated 17.08.2022:

"?10. The 5th Respondent has approached the Civil Court and he has file O.S.No.48 of 2019, seeking for the relief of Partition and separate possession of 1/27th share in the Suit properties. It is also seen that the 5th Respondent has filed yet another Suit in O.S.No.58 of 2017 in which she has claimed for the relief of Permanent Injunction restraining the Defendants not to alienate the Suit Properties. In both the Suits, there is no Order passed by the Competent Civil Court injuncting from dealing with the Suit properties. What the 5th Respondent was not able to achieve before the Civil court is now sought to be achieved through the 3rd Respondent by virtue of a Letter given before this Court, dated 21.02.2020. The 3rd Respondent is a Statutory Authority, who has to strictly perform his function in accordance with law. This Court exercising its jurisdiction under Article 226 of Constitution of India can never prevent a Statutory Authority from performing his function. Therefore unless and otherwise a Competent Civil Court passes any Interim Order restraining the alienation of the property,



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the 3rd Respondent has to entertain the documents and register the same, if it is otherwise in order. Ultimately, even if the suit is decreed, the transaction will be subject to the Rule of lis pendens. There is no law in force which says that no transaction can take place during the pendency of the suit. That is exactly why Section 52 of the Transfer of Property Act, provides a solution for transactions that take place during the pendency of the suit.

11. In view of the above discussion, the impugned Letter of the 3rd Respondent, dated 21.02.2020 is hereby quashed and the 3rd Respondent is directed to entertain the documents submitted for registration and register the same, if it is otherwise in order. It goes without saying that the necessary Stamp Duty and Registration Fee will be paid at the time of submitting the document for registration.

12. This Writ Petition is accordingly allowed. No Costs. Consequently, the connected Miscellaneous Petitions are closed.?"

4.1. At this juncture, learned Special Government Pleader for respondent would submit that petitioner may re-present the deed/power of attorney along with relevant documents and the same would be considered and appropriate orders would be passed, if it is otherwise in order. Agreed to by the learned counsel for petitioner.

5. In view thereof, the impugned refusal slip is set aside and the writ petition stands disposed of. It is open to the petitioner to re-present the document i.e., power of attorney for registration before the appropriate authority/respondent. The concerned respondent shall consider and register the document



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i.e., power of attorney if it is otherwise in order, if for any reason the registering

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authority finds that the registration ought to be refused, the same shall be done after assigning reasons and after putting the petitioner and other interested parties on notice. It is made clear that this Court has not expressed any views with regard to the merits of the representation and it is open to the concerned respondent to consider the representation on its own merits and in accordance with law. No costs.

26.06.2025

Speaking (or) Non Speaking Order

Index : Yes/ No

Neutral Citation: Yes/No

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To:
The Sub Registrar,
Dhadhagapatti,
Salem District.



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MOHAMMED SHAFFIQ, J.

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