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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**

WA No. 2899 of 2025

Manoj Kumar

Appellant(s)

Vs

1.The District Registrar,
Virudhachalam,
Virudhachalam District.

2.The Sub-Registrar,
Sirupakkam,
Virudhachalam District.

Respondent(s)

PRAYER

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 21.10.2024 in WP No.30818 of 2024 on the file of this Court.

For Appellant(s): Ms.B. Dharani

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



J U D G M E N T

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(Judgment was delivered by S.M.Subramaniam J.)

Under assail is the writ order dated 21.10.2024 passed in W.P.No.30818 of 2024. The writ petitioner is the appellant before this Court.

Brief Facts of the Case:

2. Appellant presented a settlement deed for registration under the Registration Act, 1908, [hereinafter referred to as 'the Act']. The Registering Authority/Sub-Registrar refused to register the instrument on the ground that another person is in possession of a document relating to the same schedule property. Registering Authority has stated that presentant of the document does not have an absolute right. Secondly, as per document relied on, presentant holds one-fourth share in schedule property described in the instrument. Thus refusal check slip issued came to be challenged in the writ proceedings. Writ Court dismissed the writ petition on merits.



3. Findings of the Writ Court indicates that appellant does not have an absolute right over subject property.

Availability of Alternate Remedy and Writ Courts' Role:

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



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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.

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.



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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 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.

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.

Registering Authorities' Role Confined to Procedural Compliance:

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

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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 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

¹ 2025 INSC 462



property, the registered document cannot effect any transfer.”

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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.

17. In W.P.No.30818 of 2024, Writ Court has considered the merits and made a finding, touching upon rights of parties, which would cause prejudice to them or may result in miscarriage of justice. Thus, this Court is not inclined to interfere with writ order impugned. Consequently, the writ order dated 21.10.2024 in W.P.No.30818 of 2024 stands confirmed.

18. An appeal or suit instituted shall be decided independently on merits



and based on documents and evidences. It is needless to state that

Registering Authority or Appellate Authority on receipt of explanation have to

decide the issues as expeditiously as possible since long delay would affect

the rights of parties to get their documents registered under the Registration

Act. Therefore, the authorities are expected to perform their duties vigilantly

and within a reasonable period of time.

19. With the above observations, the Writ Appeal stands dismissed.

There shall be no order as to costs.

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

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

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