



W.P (MD).No.238 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.01.2025

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THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P (MD).No.238 of 2025

Sheik Mohamed

... Petitioner

Vs.

The Sub-Registrar,
Kadayam Sub Registrar Office,
Tenkasi District.

... Respondent

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned Refusal Check Slip in Refusal Number RFL/Kadayam/84/2024 dated 26.12.2024 was issued by the respondent and quash the same as illegal and consequently directed the respondent to register the petitioner's sale deed dated 10.12.2024 in respect of the property in land to the extent of 2.75 cents at eastern side portion out of 95 cents at southern side from the total extent of 3.04 acres situated in Sy.No.137(1B2) at South Kadayam Village, Tenkasi Taluk, Kadayam Sub Registration Circle, Cheranmahadevi Registration District, Tirunelveli District.

For Petitioner : Mr.A.Sankararamasubramanian

For Respondent : Mr.S.P.Maharajan
Special Government Pleader



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ORDER

This writ petition has been filed challenging the refusal check slip issued by the respondent, dated 26.12.2024 on the ground that the subject property is situated in the unapproved layout and also failed to produce the original document.

2. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

4. The property comprised in S.No.137(1B2) to an extent of 3.04 acres situated at South Kadayam Village, Tenkasi Taluk belong to one Kannan. He had settled the same in favour of his wife on 11.07.2008 vide document No. 1935 of 2008. In turn, she had executed the power of attorney in favour of the petitioner in order to develop the same. Accordingly, the property was developed and sub-divided into house plots. After selling of the house plots, the remaining house plots to an extent of 2.75 cents comprised in S.No. 137(1B2) situated at South Kadayam Village, Tenkasi Taluk sold it in favour of



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the third party on 10.12.2024 and presented the same for registration, however, it was refused to register on the ground that there is bar under Section 22-A of the Registration Act and also the petitioner failed to produce the original parent document of the subject property.

5. Admittedly, the entire lay out is unapproved one. The entire extent of 3.04 acres situated in S.No.137(1B2) at South Kadayam Village, Tenkasi Taluk. Though the other house plots were sold, there is an amendment in the provision under Section 22-A of the Registration Act was inserted by the Tamil Nadu Amendment Act 2 of 2009 with effect from 20.10.2016. It is relevant to extract Section 22-A of the Act hereunder:-

“22-A. Refusal to register certain documents .—

Notwithstanding anything contained in this Act, the registering officer shall refuse to register any of the following documents, namely:—

(1)instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease,—

(i) belonging to the State Government or the local authority or Chennai Metropolitan Development Authority established under section 9-A of the Tamil Nadu Town and Country Planning Act, 1971;

(ii) belonging to, or given or endowed for the purpose of,



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any religious institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 is applicable;

(iii) donated for Bhoodan Yagna and vested in the Tamil Nadu State Bhoodan Yagna Board established under section 3 of the Tamil Nadu Bhoodan Yagna Act, 1958; or

(iv) of Wakfs which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995, unless a sanction in this regard issued by the competent authority as provided under the relevant Act or in the absence of any such authority, an authority so authorised by the State Government for this purpose, is produced before the registering officer;

(2) instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such land from planning authority concerned:

Provided that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as house site.

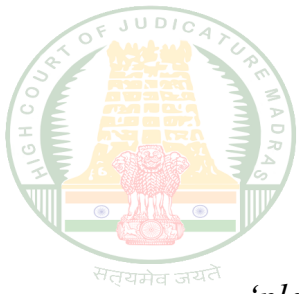
Explanation I.—For the purpose of this section ‘local authority’ means,—

(i) any Municipal Corporation constituted under any law for the time being in force; or

(ii) a Municipal Council constituted under the Tamil Nadu District Municipalities Act, 1920 ; or

(iii) a Panchayat Union Council or a Village Panchayat constituted under the Tamil Nadu Panchayats Act, 1994 ; or

(iv) any other Municipal Corporation, that may be constituted under any law for the time being in force.



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Explanation II.—For the purpose of this section ‘planning authority’ means the authority constituted under section 11 of, and includes the Chennai Metropolitan Development Authority established under section 9-A of the Tamil Nadu Town and Country Planning Act, 1971;

(3) instrument relating to cancellation of sale deeds without the consent of the person claiming under the said sale deed.”

6.Though the proviso to Section 22-A(2) of the Act says that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as house site, since the petitioners are the developers and it is the first sale, the proviso to Section 22-A(2) is not applicable to the case on hand. That apart, the Regularization of Unapproved Plots and Layouts Rules, 2017 (hereinafter referred to as 'the Rules') were made by G.O.(Ms)No.78, Housing and Urban Development [UD4(3)] Department, dated 04.05.2017. The Rule 3 of says about cut off date for considering the regularization of unapproved plots and layouts. It is relevant to extract Rule 3 hereunder:-

“3.Cut-off date for considering regularisation of unapproved plots and layouts.— Only those unapproved layouts where a part or full number of plots have been sold through a registered sale deed as on 20th October, 2016 shall be



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considered for regularization under these rules. Similarly, all plots including unsold ones are eligible for regularization in layouts where at least a part of the total number of plots have been sold through a registered sale deed as on 20th October, 2016. Individual plot in a sub-division registered by a sale or title deed as on 20th October, 2016 shall also be eligible for regularization. As proof and evidence, the plot holder or the layout promoter is required to furnish copies of the sale deed or title deed for the plots sold. Agreement for sale or General Power of Attorney shall not be considered as evidence for proof of sale of plot.”

7. From the above, it is clear that all plots including unsold ones are eligible for regularization in layouts, where at least a part of the total number of plots have been sold through a registered sale deed as on 20.10.2016 and individual plot in a sub-division registered by a sale or title deed as on 20.10.2016 shall also be eligible for regularization. Therefore, the subject plot, which is now stopped for registration, is required for regularization. It is being the first sale, the judgment cited by the learned counsel for the petitioners is not applicable to the case on hand.

8. Therefore, the respondent has rightly refused to register the sale deed on the ground that there is a bar under Section 22-A of the Registration



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Act since the subject property is unapproved, it requires regularisation and there is no illegality or irregularity in the order passed by the respondent and there is no interference is required in this regard.

9. Insofar as the production of original parent document is concerned, this issue has already been settled by this Court that the registering authority cannot insist the party to produce the original parent document while registration. The petitioner is at liberty to represent the sale deed for registration after regularising the subject property for registration.

10. Accordingly, the writ petition is partly allowed. No costs.

Internet : Yes
Index : Yes/No
Speaking/Non Speaking order
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07.01.2025

To

The Sub-Registrar,
Kadayam Sub Registrar Office,
Tenkasi District.



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G.K.ILANTHIRAIYAN, J.

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