



W.P.(MD)No.1468 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **21.01.2025**

CORAM:

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

W.P.(MD)No.1468 of 2025

P. Ganesaraja

... Petitioner

/Vs./

The Sub Registrar
Office of the Sub Registrar,
Theni,
Theni District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with the order in Na.Ka. No.1164/Saa.Pa.Theni/2024 dated 23.12.2024 passed by the respondent and quash the same consequently directing the respondent to register and release the document.

For Petitioner : Mr.S.Malaikani

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 23.12.2024, thereby, refused to register the sale deed, on the ground that there is a bar under Section 22-A(2) of the Registration Act.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The property comprised in S.No.181/1A2A2, to an extent of 1891 sq.ft. Belonged to one Vijaya. She had sold the said property by the registered sale deed dated 04.11.2020 vide document No.8565/2020 in favour of one S.Lakshmi and Sumathi. In turn, they had executed power of attorney in favour Sumathi, to deal with the property and the same was registered vide document No.3527/2024 dated 04.05.2024. In turn, the power holder executed a sale deed in favour of the petitioner on 20.12.2024, in respect of the very same property and presented for registration. However, it was refused by the respondent on the ground that there is a bar under Section 22-A(2) of the Registration Act.



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4. The learned counsel for the petitioner submitted that the proviso of Section 22-A(2) of the Registration Act, is clear that if any house site already registered after enactment of the provision under Section 22-A(2) of the Registration Act, it can be registered, without insisting for approval of the subject property.

5. The learned Special Government Pleader appearing for the respondent, on instructions, submitted that the earlier registration vide document No.8562/2020 is under the scrutiny of audit objection and it was also recorded in the book of records and the further proceedings is in progress and therefore, the proviso to Section 22-A(2) of the Registration Act is not applicable to the case on hand.

6. 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:-



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(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, 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;



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(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.

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



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*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.”*

7.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 petitioner is the developer 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*



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sold through a registered sale deed as on 20th October, 2016 shall be 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.”

8. 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



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by the learned counsel for the petitioner is not applicable to the case on hand.

9. Thus, it is clear that the unapproved plots cannot be registered and it is liable to be regularised. That apart, the consequences of non-regularisation if the house plot is not regularised, electricity, water supply and other amenities shall not be extended to such unapproved plot or layout. Such unapproved plot shall not be registered under the Registration Act 1908. Further, no building approval shall be given by the authorities concerned for such unapproved plot. In order to give effect to the consequences, the plots shall be regularised in the manner known to law. Therefore, the subject property is dropped for registration and it requires regularisation.

10. Therefore, the respondent has rightly refused to register the same and this Court finds no infirmity or illegality in the order passed by the third respondent and it is liable to be dismissed.



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11. Accordingly, the writ petition is dismissed. No costs. It is also made clear that after getting regularisation of the subject property, the sale deed can be presented for registration.

Internet : Yes/No
NCC : Yes / No
LS

21.01.2025

TO:-

The Sub Registrar
Office of the Sub Registrar,
Theni,
Theni District.



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G.K.ILANTHIRAIYAN, J.

LS

Order made in
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Dated:
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