



W.P.(MD)No.2865 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.01.2025**

CORAM:

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

W.P.(MD)No.2865 of 2025

Mr.Vivekanandan

... Petitioner

/Vs./

The Sub Registrar,
Sivagiri,
Tenkasi District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned Refusal Check Slip issued by the respondent in RFL/Sivagiri-Tenkasi/1/2025 dated 06.01.2025 and quash the same as illegal and consequently direct the respondent herein to register the document submitted by the petitioner in respect of the property in Survey No. 419/5, New Survey No. 419/5E in Sivagiri Part II Village, Sivagiri Taluk, Tenkasi District measuring 2622 square feet within a time frame fixed by this Court.



W.P.(MD)No.2865 of 2025

WEB COPY

For Petitioner : Mr.R.J.Karthick
For Respondent : Mr.S.P.Maharajan,
Spl. Government Pleader

ORDER

This writ petition has been filed challenging the refusal check slip issued by the respondent dated 06.01.2025, thereby refused to register the memorandum of title deeds presented by the petitioner for registration in respect of the property comprised in S.No.419/5, New S.No.419/5E, situated at Sivagiri Part II Village, Sivagiri Taluk, Tenkasi District, on the ground that the counter party has filed a civil suit in OS No.216 of 2020 before the Subordinate Court, Sankarankovil, seeking for declaration in respect of the very same property and it is pending.

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



W.P.(MD)No.2865 of 2025

WEB COPY

3. The petitioner purchased the subject property by the registered sale deed dated 06.02.2020 registered vide Document No.247/20. While being so, the petitioner's sisters filed suit in OS No.216 of 2020 before the Subordinate Court, Sankarankovil, seeking for partition and also declaration declaring that the sale deed executed in favour of the petitioner is null and void.

4. The said suit is pending for adjudication without any interim order. In the said suit, the respondent is also not a party. Therefore, there is no legal impediment or legal obstacle for the registering authority to register any deed of conveyance in respect of the subject property, which is subjected in OS No.216 of 2020 on the file of the Subordinate Court, Sankarankovil.

5. It is relevant to extract the order passed by this Court in WP.No. 5179 of 2017 dated 22.10.2021, which reads as follows:-

“5. In this regard, the learned counsel appearing for the petitioners submitted that the pendency of any suit is not impediment for the registering authority to register the document, when the title is in favour of the executant.



WEB COPY



W.P.(MD)No.2865 of 2025

Mere pendency of the suit is not impediment or legal obstacle for registering sale deed, since there is no interim order as against the registering authority. In support of his contention, he relied upon the judgment reported in 2021 1 CTC 535 in the case of Vadamugam Vellode Nalukarai Nattu Goundergal Sangam Vs. Inspector General of Registration and Ors., in which this Court held that the registering authority is being statutory authority, who has to strictly perform his function in accordance with law. Unless and otherwise a Competent Civil Court passes any Interim Order restraining the alienation of the property, the registering authority 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.

6. He also relied upon the judgment of the Hon'ble Division Bench of this Court reported in 2020 6 CTC 697 in the case of N. Ramayee vs. The Sub-Registrar, Registration Department and Ors., which held that if transfer is made during a pending suit, such transfer is not void but is subject to the result of the suit. Section 53 of the Transfer of Property Act, deals with fraudulent transfer. Even such fraudulent transfer is made with intent to defeat or delay the creditors of the



WEB COPY



W.P.(MD)No.2865 of 2025

transferor shall be voidable at the option of any creditor so defeated or delayed. Even in such cases the rights of transferee in good faith and for consideration is protected. Further held that if 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.

7. In view of the above dictum laid down by this Court, the third respondent 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. Hence, the above judgments are squarely applicable to the present case and the impugned Check Slip dated 13.02.2017 cannot be sustained as against the petitioners and it is liable to be set aside.

8. Accordingly, the Check Slip dated 13.02.2017 issued by the third respondent is hereby quashed. The petitioners are directed to file an affidavit to the effect that in the pending suit in O.S.No.39 of 2014, on the file of the District Munsif Court, Pappireddipatti, Dharmapuri District, there is no interim injunction in respect of the subject property. On such filing, the third



WEB COPY



W.P.(MD)No.2865 of 2025

respondent is directed to register the sale deed presented by the petitioners dated 13.02.2017, if it is otherwise in order, within a period of six weeks from the date of filing of the above said affidavit.”

6. In view of the above, the impugned refusal check slip dated 06.01.2025 passed by the respondent cannot be sustained and is liable to be quashed. Accordingly, the impugned refusal check slip dated 06.01.2025 passed by the respondent is quashed. The petitioner is directed to represent the document for registration before respondent and on receipt of the same, the respondent is directed to register and release the same, if it is otherwise in order.

7. With the above direction, this writ petition is allowed. There shall be no order as to costs.

31.01.2025

Index : Yes / No
NCC : Yes / No
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W.P.(MD)No.2865 of 2025

WEB COPY

TO:-

The Sub Registrar,
Sivagiri,
Tenkasi District.



WEB COPY



W.P.(MD)No.2865 of 2025

G.K.ILANTHIRAIYAN, J.

Sm

Order made in
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Dated:
31.01.2025