



W.P.(MD) No.4509 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.03.2025

CORAM:

THE HONOURABLE Mr.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD)No.4509 of 2025

Rajeswari

... Petitioner

Vs.

The Joint Sub Registrar No.2,
Sivagangai,
Sivagangai District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to check slip no. 19/2024 dated 10.12.2024 issued by the respondent herein and quash the same and consequently direct the respondent to register the sale deed dated 10.12.2024.

For Petitioner : Mr.C.Meenakshi Rama Prabu

For Respondent : Mr.R.Suresh Kumar

Additional Public Prosecutor



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ORDER

The petitioner seeks to quash the refusal check slip dated 10.12.2024 and consequently, seeks mandamus to register the sale deed of the same date.

2. The petitioner pleads that the property situated in S.No.160/16, to an extent of 21.5 cents, belonged to her mother-in-law, Muniyae. She had obtained the property as Stridhana from her father, Krishnan Ambalam. Muniyae had two sons, by name, Shanmugam @ Shamuganadhan and Raja. Muniyae's husband, Muthalagu Ambalam, predeceased her. Muniyae and her younger son, Raja, executed a sale deed in favour of the petitioner to an extent of 94 cents.

3. The petitioner had plotted out the property into 6 house sites and had alienated them on the following dates: 27.10.1997, 10.09.1998, 04.02.2016, 18.02.2016, 29.02.2016 and 21.04.2016. After such alienation, she had, in her name, the remaining extent of 21.5 cents. She executed a sale deed in favour of one Karuppaiah on 10.12.2024. The sale was as a punja land and presented the same for registration.



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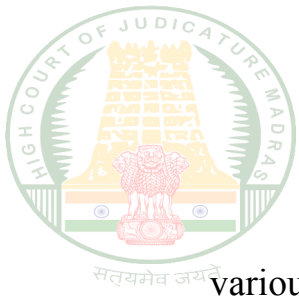
4. The respondent refused to register the document on the ground that the petitioner had earlier sold 6 portion of properties as house sites and thereafter, it is unacceptable that she sells an extent of 21.5 cents as punja land. He relied upon Section 22-A(2) of the Registration Act, 1908 (*hereinafter referred to as the Act*) to arrive at the said conclusion.

5. When the matter came up for admission on 20.02.2025, Mr.R.Suresh Kumar took notice and sought time for getting instructions. I adjourned the matter.

6. I have heard Mr.C. Meenakshi Rama Prabhu for the petitioner and Mr.R.Suresh Kumar for the respondent.

7. Mr.Meenakshi Rama Prabhu urged that the property is being sold as an agricultural land and therefore, it will not attract Section 22-A(2) of the Act.

8. Per contra, Mr.R.Suresh Kumar argues that the petitioner had plotted out her holdings into 6 different plots and had sold them on



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various occasions. He pleads that, as the property had been unauthorisedly plotted out, the petitioner would not be entitled to alienate the remaining extent as punja land. He further states that the sale would attract Section 47-A(1) of the Indian Stamp Act, 1899 and therefore, it should not be registered. He relies upon the judgment of the Division Bench of this Court in *Anbuselvan Vs. The District Registrar and others* [W.A(MD)No.2633 of 2024 dated 13.02.2025] to substantiate his submissions.

9. I have carefully considered the submissions of both sides.

10. Insofar as the first ground of rejection that Section 22-A(2) of the Act would apply to the facts of the case. I have to point out that Section 22-A(2) of the Act would apply only if the agricultural land is converted into plots and sold as such. The said provision would not apply, where the agricultural land is sold as agricultural land. In the present case, the petitioner is selling her remaining extent of 21.5 cents in favour of Karuppaiah as agricultural land and therefore, the said provision is not attracted.



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11. With respect to the second point urged by Mr.R.Suresh Kumar, that the petitioner had illegally plotted out her land and sold the same to several third parties is concerned, I should recollect the brief history of Section 22-A of the Registration Act.

12. Originally, when Section 22-A had been inserted, the State of Tamil Nadu had declared that any document contrary to public policy should not be registered. As to what is public policy, the Government of Tamil Nadu had issued a separate order in G.O.(Ms) No.150 Commercial Taxes Department, dated 22.09.2000. This order, inter alia, stated that any property which has been unauthorisedly converted as a plot without approval from the planning authority would be hit by public policy.

13. The constitutional validity of Section 22-A, as originally enacted, was challenged before a Division Bench of this Court in *Captain Dr.R.Bellie and another Vs. The Sub Registrar [2007 (3) CTC 513]*. This Court consisting of S.J.Mukhopadhaya,J. and Mr.R.Sudhakar,J. [as their lordships then were] declared Section 22-A



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and the G.O issued by the Government as unconstitutional.

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14. The ground, on which a document where be held to be contra to the public policy, under G.O(Ms).No.150 was re-enacted as Section 22-A. Though Section 22-A was brought into the statute by the Tamil Nadu Act 28 of 2012 on 21.06.2012, it was not notified by the Government of Tamil Nadu till 20.10.2016. In other words, the Section was in the statute book, but was not brought to life.

15. A perusal of the Paragraph No.5 of the counter would show that the alienations, that had been made by the petitioner in favour of the third parties, had all been done between the period 27.10.1997 to 21.04.2016, when there was no law declaring that an agricultural land cannot be converted into housing plot without permission of the Government. This subtle difference, in fact, makes all the difference between the facts of this case and the one in the *Anbuselvan's* case referred to supra.

16. In *Anbuselvan's* case, a learned Single Judge had recorded that



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alienation had been made of agricultural plots as house sites after coming into force of Section 22-A of the Registration Act. The Division Bench confirmed the view that the registration of agricultural land into housing plots cannot be done post coming into force of Section 22-A of the Registration Act. This is clear from the Paragraph No.3 of the said Judgment.

17. In the facts of the present case, as the alienations had been made before Section 22-A(2) of the Act had come into force, the petitioner would not only be entitled to the benefit of the proviso, but I have to point out the Division bench Judgment would not be applicable to the facts of the present case.

18. In the light of the above discussions, the writ petition succeeds. The impugned order is quashed and there shall be a direction to the respondent to register the sale deed dated 10.12.2024 within a period of two weeks from the date of uploading of the order. Call on compliance after three weeks.



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19. Accordingly, this writ petition is allowed. There shall be no

order as to costs.

11.03.2025

NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

The Joint Sub Registrar No.2,
Sivagangai,

Sivagangai District.



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V. LAKSHMINARAYANAN, J.

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