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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.06.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No.15535 of 2025

Nimal Mugan ... Petitioner

Vs.

The Sub Registrar,
Thevaram Sub Registrar Office,
Thevaram, Uthamapalayam Taluk,
Theni District. ... Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned refusal check slip given by the respondent vide Refusal Number: RFL/Thevaram/1/2025, dated 02.04.2025 and to set aside the same as illegal and consequently, to direct the respondent to register the sale deed presented on 02.04.2025 within the period that may be stipulated by this Court.

For Petitioner : Mr.R.Ramanujam

For Respondent : Mr.S.Saji Bino
Special Government Pleader

ORDER

The present Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to quash the impugned refusal check slip given by the respondent vide Refusal Number: RFL/Thevaram/1/2025, dated 02.04.2025 and consequently, to direct the respondent to register the sale deed presented on 02.04.2025 within the period that may be stipulated by this Court.

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2.The respondent has refused to register the sale deed when presented by the petitioner by citing the District Registrar's orders.

3. According to the learned Counsel appearing for the petitioner, as far as the title is concerned, the petitioner's right has been decided as early as in the year 1963 in a suit filed in OS No.22/1963 by the Civil Court. However, now one S.Duraipandian @ Sivasubramaniya Seenivasa Bodaya claiming to be the step son of Bangaru Ammal is claiming right. But the legal heirs already lost their right in O.S.No. 22/1963. Further, it is stated that O.S.No.46/2015 has been filed by the him suppressing the earlier suit and the judgment and decree in O.S. No. 22/1963. However, the said suit was also rejected by the Court below by order, dated 22.03.2021. Challenging the same, appeal has been filed by the said S.Duraipandian in A.S.No.16/2021 on the file of the Sub Court, Theni. But no stay has been granted. Hence, the impugned refusal check slip is challenged.

4.The respondent has filed a counter affidavit stating in the given backdrop, the writ petitioner presented the document in respect of S.No.1015/1A, 1015/1C, Thevaram Village, Thevaram Sub Registrar Office, Theni District, for registration on 02.04.2025 and the same was refused on 02.04.2025 itself for the reason that appeal in A.S.No.16 of 2021 is pending relating to the declaration of legal heir of Bangaaru Ammal who is the owner of the property in S.No. 1015/1A,

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1015/1C, Thevaram Village, Thevaram Sub Registrar Office, Theni District, which sought to be registered by the writ petitioner. The law is well settled by the Hon'ble Supreme Court of India in ***"Asset Reconstruction Company (India) Limited - Vs S.P. Velayutham"*** wherein it has been held that the registering authority is certainly having the powers to enquire the transactions which is legally executed and it is held as follows:-

> *"If the Registering Officer under the Act is construed as performing only a mechanical role without any independent mind of his own, then even Government properties may be sold and the documents registered by unscrupulous persons driving the parties to go to civil court. Such an interpretation may not advance the cause of justice."*

5. This Court is of the considered opinion when a suit filed by the said S.Duraipandian claiming right itself is dismissed and the appeal is pending and no stay has been granted, then the refusal order cannot be sustained in the eye of law. A perusal of the suit in O.S.No.22/1963 shows that decree has already been granted in favour of the petitioner's predecessor in title. In such view of the matter, mere registration of the sale deed will not take away the right of the said S.Duraipandian to canvass the appeal. In the event they succeed, the sale deed will be always subject to the rights of the parties declared in the Civil Court. Therefore, the impugned order is liable to be quashed.

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6. Accordingly, the writ petition is allowed and the impugned refusal check slip is quashed and the respondent is directed to register the sale deed. No costs.

25.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes

Tmg

To

The Sub Registrar,
Thevaram Sub Registrar Office,
Thevaram, Uthamapalayam Taluk,
Theni District.

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S.SRIMATHY, J.

Tmg

ORDER MADE IN
W.P(MD)No.15535 of 2025

DATED : 25.06.2025

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