



W.P(MD)No.16450 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2025

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.16450 of 2024

Vijaya Venkitasamy

... Petitioner

Vs

1.The Inspector General of Registration,
Office of the Inspector General of Registration,
Chennai.

2.The District Registrar,
Office of the District Registrar,
Virudhunagar District.

3.The Sub-Registrar,
Sub-Registrar Office,
Thiruthangal,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned refusal check slip of the third respondent in refusal check slip in refusal number RFL/Thiruthangal/3/2024 dated 05.01.2024 and quash the same as illegal and further directing the third respondent to entertain the gift deed dated 05.01.2024 presented by the petitioner for registration.

For Petitioner : Mr.T.Leninkumar

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



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ORDER

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This Writ Petition has been filed by the petitioner challenging the refusal check slip issued by the third respondent dated 05.01.2024 thereby refusing to register the gift deed executed by the petitioner on the ground that there is a bar under Section 22-A of the Registration Act, 1908.

2.The property comprised in Survey No.1276/1B to an extent of 2.48 acres situated at Keela Thiruthangal Village, Sivakasi Taluk, Virudhunagar District owned by the petitioner's father. After his demise, the petitioner is only the legal heir and derived title over the property and also derived patta in his name. Thereafter, the petitioner decided to sell the property and sub-divided into several plots and sold out in favour of the third parties. In order to have a pathway to other various extents of the property, the petitioner had executed a gift deed in respect of the land comprised in Survey No. 1276/1B1A1 to an extent of 37.74 cents. The third respondent found that the entire area was unapproved one and in order to legalize the earlier sale, the petitioner now had executed a gift deed in favour of the local body without getting proper layout approval for



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the entire subject land. In respect of sub-division into house plots the provision under Section 22-A of the Registration Act, 1908 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, 1908 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, 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



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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.

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.”



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3. Though the proviso to Section 22-A(2) of the Act, 1908 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 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.”

4.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 subdivision 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.

5.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



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consequences, the plots shall be regularised in the manner known to law. Therefore, the subject property is dropped for registration and it requires regularisation.

6. Therefore, this Court finds no infirmity or illegality in the refusal check slip issued by the third respondent, dated 05.01.2024 and it is liable to be dismissed. Accordingly, this Writ Petition is dismissed. However, the petitioner is at liberty to represent the gift deed for registration, after regularizing all the house plots, in the manner known to law. There shall be no order as to costs.

27.01.2025

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

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G.K.ILANTHIRAIYAN, J.

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