



W.P(MD)No.17596 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2025

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.17596 of 2024

and

W.M.P(MD)No.15120 of 2024

1.Maheshwari
2.K.Bala Aravinth
3.K.Sanjay Madhan

... Petitioners

Vs

The Sub Registrar,
Office of the Sub Registrar,
Shenkottai,
Tenkasi Taluk,
Tenkasi District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned refusal check slip in RFL/Shenkottai/32/2024 dated 20.06.2024 issued by the respondent and quash the same and consequently direct the respondent to register the partition deed which was presented on 20.06.2024 within the time stipulated by this Court.

For Petitioners : Mr.A.Saravanan

For Respondent : Mr.M.Sarangan
Additional Government Pleader



W.P(MD)No.17596 of 2024

ORDER

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This Writ Petition has been filed by the petitioners challenging the refusal check slip issued by the respondent dated 20.06.2024 thereby refusing to register the partition deed which was presented for registration.

2.The property comprised in Survey No.338/2A, new Survey No.565/9 to an extent of 66 cents situated at Manpothi, Keelacharivil, Thavanikadu, Melur Village, Shenkottai Taluk, Tenkasi District was purchased by the first petitioner's husband by the registered sale deed dated 28.03.2022 registered vide Document No.720 of 2022. Thereafter, the first petitioner's husband was issued patta and all the revenue records were mutated in his favour. In turn, he had executed family arrangement deed vide Document No.831 of 2024 thereby conveyed to an extent of 21-3/4 cents out of total extent of 66 cents in favour of the petitioners being his wife and two sons. In turn, the petitioners had partitioned the said property and executed partition deed dated 19.06.2024 and presented for registration. The respondent refused to register the partition deed on the ground that the subject land is unapproved/non-regularization house plot.



W.P(MD)No.17596 of 2024

3.The learned counsel appearing for the petitioners would submit that the partition deed was executed by the petitioners who are none other than the family members. In fact, the entire property was executed by way of family arrangement deed by the husband of the first petitioner and father of the petitioners 2 and 3.

4.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;



W.P(MD)No.17596 of 2024

(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;

(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



W.P(MD)No.17596 of 2024

(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.”

5. 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 petitioners are 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



W.P(MD)No.17596 of 2024

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.”

6.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



W.P(MD)No.17596 of 2024

being the first sale, the judgment cited by the learned counsel for the petitioners is not applicable to the case on hand.

7.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.

8.On perusal of the partition deed also revealed that out of 21-3/4 cents, now they sub-divided the property into 5.63 cents, 5.5 cents and 6.11 cents for the petitioners respectively. Therefore they sub divided the total extent of 21-3/4 cents into house plots in order to develop the same. Therefore, this Court finds no infirmity or illegality in the refusal check slip issued by the respondent, dated



W.P(MD)No.17596 of 2024

20.06.2024 and it is liable to be dismissed. Accordingly, this Writ Petition is dismissed. However, the petitioners are at liberty to represent the partition deed for registration, after regularizing all the house plots, in the manner known to law. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

**24.01.2025
(1/2)**

NCC : Yes / No
Index : Yes / No
Internet : Yes
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W.P(MD)No.17596 of 2024

To

The Sub Registrar,
Office of the Sub Registrar,
Shenkottai,
Tenkasi Taluk,
Tenkasi District.



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W.P(MD)No.17596 of 2024

G.K.ILANTHIRAIYAN, J.

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Order made in
W.P(MD)No.17596 of 2024

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(1/2)