



WP(MD) No.10488 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON
13.12.2024

PRONOUNCED ON
31.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)No.10488 of 2016 &
WMP.(MD)No.8166 of 2016

M.Amutha

... Petitioner

vs.

1.The District Registrar,
Karaikudi,
Sivagangai District.

2.The Joint Sub Registrar-II,
Karaikudi
Sivagangai District.

3.AR.Singarathammal

4.Thamizharasi

5.Palanivelu.

6.Dakshinamurthy

... Respondents

PRAYER :- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records



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relating to the impugned order of the second respondent in order No. 19/2015, dated 24.11.2015 and the impugned order of the first respondent in Appeal No.02/2015, dated 02.05.2016, quash the same and consequently direct the respondents 1 & 2 herein to register and return the sale deed dated 11.09.2015, vide Doc.No.68 of 2015 executed by the third respondent in favour of the petitioner within a reasonable time as may be fixed by this Court.

For Petitioner : Mr.H.Arumugam for
Mr.B.Muruganandam

For Respondents : Mr.S.P.Maharajan, Spl.G.P., for RR1&R2
Mr.G.Karnan for RR4 & R5
Mr.J.Anandkumar for R3
No Appearance for R6

ORDER

The Writ Petition had been filed challenging the rejection order passed by the first respondent in an appeal against the order of the second respondent whereby it was refused to register the sale deed executed in favour of the petitioner.

2. Heard Mr.H.Arumugam, learned counsel for Mr.B.Muruganandam, learned counsel for the petitioner, Mr.S.P.Maharajan, learned Special



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Government Pleader, appearing on behalf of the respondents 1 & 2,
Mr.G.Karnan, learned counsel appearing on behalf of the respondents 4 & 5
and Mr.J.Anandkumar, learned counsel appearing on behalf of the third
respondent.

3. The petitioner is aggrieved against the check slip issued by the second respondent in refusing to register the document presented by the petitioner relating to a sale deed executed by the third respondent herein and assigned with pending Document No.68/2015 by relying upon a Circular issued by the Inspector General of Registration on the ground that the encumbrance certificate reflects to one registered agreement of sale.

4. The case of the petitioner is that the third respondent had agreed to execute a sale deed in respect of the Schedule mentioned properties therein and the same was also accepted for registration and assigned with a pending Document No.68 of 2015. However, on verification of the encumbrance certificate, registration was not completed and was put on hold by relying upon an agreement of sale reflected in the Encumbrance Certificate. An appeal filed against the same was also rejected with a direction to the parties



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to settle the dispute before an appropriate Civil Court and thereafter approach the Registering Authority for registration of the document.

5. It is the case of the petitioner that the third respondent under the influence of the respondents 4 & 6 even though had executed a document in front of the Registrar had made a U-turn stating that she was not aware that the said document was a sale deed that is sought to be registered. He would heavily rely upon on the subsequent judgment of a Division Bench in the case of *N. Ramayee v. Sub-Registrar*, reported in **2020 6 CTC 697** and contend that such refusal cannot be made by the Registrar and he have to necessarily register the documents. Therefore, he would seek interference with the orders impugned herein.

6. On the contrary, Mr.S.P.Maharajan, learned Special Government Pleader would submit that the third respondent herein had disputed the execution of such document in favour of the petitioner and only in such respect, the parties were directed to approach the Civil Court for remedying their grievances. He would further reiterate that when there is an encumbrance of the property it is not for the Registrar to entertain the said



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document as it would create third party interest leading to civil litigation.

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7.Mr.J.Anand Kumar, learned counsel appearing for the third respondent would contend that the third respondent was not aware that the said document was a sale deed that is sought to be registered and was only under an impression that it was only a power of attorney, she was neither be influenced by the respondents 4 to 6.

8.Mr.G.Karnan, learned counsel appearing on behalf of the respondents 4 & 5 would submit that the third respondent having entered into an agreement with the respondents 4 & 5 was not entitled to sell the property in favour of any third party. Therefore, the refusal slip issued by the second respondent is valid in law.

9.I have heard the learned counsels appearing on either side and perused the materials placed on record.

10.It is an admitted case that the document had been presented for registration and had been assigned with pending Document No.68 of 2015.



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All formalities in respect of registration of the document were over. But the document was kept pending only on the ground that the encumbrance reflected a sale agreement. The refusal to register the document on the ground that a sale agreement is shown in the encumbrance certificate cannot be a valid reason for refusal of such document. The issue is squarely covered by a Division Bench judgment of this Court relied upon by the learned counsel for the petitioner in the case of *N. Ramayee v. Sub-Registrar* reported in **2020 6 CTC 697**. On a reference made to a Division Bench judgment of this Court, the Division Bench had answered the reference by holding that the Registrar has no right to refuse to register a document and that an agreement of sale registered in respect of the immovable property will not be a bar for the owner of the property to effect subsequent transfers in respect of the same property. For better appreciation, the relevant paragraphs are extracted hereunder:-

“...46. Accordingly, we answer the reference as follows:

If an 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-



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A of the Tamil Nadu Act and as contemplated under Rule 162 of the Registration Rules.

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49. As already indicated, the purpose of registration is only to give a public notice. It is for the buyer or subsequent transferee to make reasonable enquiry. Doctrine of caveat emptor will also apply to every transfer. It is for them to verify the title of the property by making reasonable enquiry. At any event, subsequent transfer will always be subject to the rights already created. Therefore, it cannot be said that merely because agreement for sale is registered without obtaining decree of declaration that such agreement is void, subsequent transfer is prohibited and cannot be registered. We hold that as discussed in our judgment, Registrar has no right to refuse to register the subsequent document on the basis that agreement of sale was already registered in respect of same property. Accordingly, the reference is answered. Post the writ petition in W.P. No. 674 of 2020 before the learned single judge for disposal...”

11.In such view of the matter, the refusal slip issued by the first respondent and affirmed by the second respondent deserves to be interfered with. However, the third respondent who is the executant of the document had raise an objection denying the execution of the document before the first respondent upon which the order of refusal had been confirmed. It is to be noted that the petitioner had not been given sufficient opportunity to refute the denial of execution made by the first respondent.

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12.In such view of the matter, the impugned order is set aside and the second respondent is directed to consider the document, which has been assigned the pending document No.68 of 2015, and proceed with the same in terms of Sections 34 & 35 of the Registration Act, 1998.

13.With the aforesaid direction, the Writ Petition is allowed and the impugned order is set aside. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

31.01.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
gba



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To
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Sivagangai District.
- 2.The Joint Sub Registrar-II,
Karaikudi
Sivagangai District.



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K.KUMARESH BABU.,J.

Gba

A Pre-delivery order made in
W.P.(MD)No.10488 of 2016 &
WMP.(MD)No.12109 of 2016

31.01.2025