



W.P(MD)No.25578 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 17.09.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25578 of 2025

and

W.M.P(MD)No.20026 of 2025

V.Shanmugam

... Petitioner

Vs.

1.The Inspector General of Registration,
O/o.The Inspector General of Registration,
Santhome High Road,
Chennai.

2.The Sub Registrar,
Devakottai,
Sivagangai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of second respondent in RFL/Devakottai/6/2025 dated 29.08.2025, quash the same and consequently direct the second respondent herein to register the General Power of Attorney dated 22.07.2025 executed by the petitioner within a reasonable time as may be fixed by this Court.



WEB COPY



W.P(MD)No.25578 of 2025

For Petitioner : Mr.B.Muruganandam
For Respondents : Mr.D.Gandhiraj
Special Government Pleader

ORDER

Heard both sides.

2.The petitioner claims to own the petition mentioned property. He had executed a power of attorney in favour of one Asai to deal with the said property. The power of attorney was presented for registration. However, the registering authority noted that the property had already been mortgaged in favour of one Shanthi and that the mortgage had not been redeemed. Citing the subsistence of the mortgage, the registration of the power of attorney was refused. Challenging the said refusal check slip, this writ petition came to be filed.

3.The power of attorney had earlier filed W.P(MD)No.24797 of 2025. I dismissed the writ petition on the ground that only the principal, namely, Shanmugam has the locus to challenge the refusal check slip and not the power agent. In terms of the said observation, the principal itself



W.P(MD)No.25578 of 2025

has come forward to question the refusal check slip issued by the registering authority.

4.It is seen that the document that is sought to be registered is only a power of attorney. There is no transfer or conveyance of right or title or interest in the property. Besides, the Hon'ble Division Bench in the decision reported in **2020 (6) CTC 697 (N.Ramayee Vs. The Sub Registrar, Registration Department, Salem)** had held that the subsistence of registered sale agreement will not bar the owner from effecting subsequent transfer in respect of the same property. The same principle will apply to the case of the mortgage also. Paragraph 46 of the said decision reads as follows:

“46. It is also brought to our notice about the new circular in No. 24011/C1/2020 dated 08.10.2020. It is the contention of the learned Additional Advocate General that the Registrar has power to regulate the registration in order to prevent fraud and hence, the Registrar is having powers Under the Registration Act to regulate the registration and the right to refuse the document and that such power is available under Section 71 of the Registration Act. Such contention is not



WEB COPY



W.P(MD)No.25578 of 2025

acceptable for the simple reason that the circular bars transfer of property on the ground that when a lease is already executed in respect of the property, without expiry of the lease, transfer cannot be permitted or without consent of lessee no registration is permissible. Further, insisting a no objection from mortgagee before registration is also against the very substantive provision of law. If any property is sold with existing mortgage, the transferee steps into the shoes of mortgagor. He has the right to redeem the property by paying the mortgage money. Therefore in the name of regulating the registration, any circular which is in the nature of violating the substantive provision of law, which deals with the transfer of property, then such circular cannot stand in the eye of law. If the contention of learned Advocate General that without seeking declaration and cancellation of the agreement of sale, subsequent agreement or transaction cannot be registered, is accepted then such restriction, in fact, infringes the very Constitutional right of the citizen provided under Article 300 A of the Constitution.”

5. When the Hon'ble Division Bench had already held that the said circular cannot stand in the eye of law, the registering authority cannot rely on the very same circular. The impugned stand of the registering



W.P(MD)No.25578 of 2025

authority runs counter to the decision of the Hon'ble Division Bench in **Ramayee's** case.

6.In this view of the matter, the impugned refusal check slip is quashed. The petitioner is permitted to re-present the document. It shall be registered by the second respondent subject to the fulfilment of the other usual formalities. It is needless to mention that any transaction which the petitioner may enter into would be subject to the mortgage already executed in favour of Shanthi.

7.This Writ Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

17.09.2025

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

To

1.The Inspector General of Registration,
O/o.The Inspector General of Registration,
Santhome High Road, Chennai.

5/6



WEB COPY



W.P(MD)No.25578 of 2025

G.R.SWAMINATHAN, J.

MGA

2.The Sub Registrar,
Devakottai,
Sivagangai District.

W.P(MD)No.25578 of 2025

17.09.2025