



W.P (MD).No.30946 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.01.2025

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P (MD).No.30946 of 2024

Muthuvel

... Petitioner

Vs.

1.The Inspector General of Registration,
100 Santhome,
Chennai.

2.The District Registrar,
Dindigul.

3.The Sub-Registrar,
Ottanchathiram,
Dindigul District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the refusal check slip in RFL/Ottanchathiram/42/2024 dated 10.12.2024 issued by the respondent and quash the same as it is illegal and in consequence to direct the respondent to register the sale deed dated 30.09.2024 produced by the petitioner and to release the same after completing necessary formalities.

For Petitioner : Mr.R.Suriya Narayanan

For R1 to R3 : Mr.M.Sarangan
Additional Government Pleader



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ORDER

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This writ petition has been filed challenging the impugned refusal check slip issued by the third respondent, dated 10.12.2024, thereby, refused to register the sale deed, which was presented for registration by the petitioner, on the ground that out of 5 acres 54 cents, 3 acre 23 cents was already purchased by one Saraswathi in respect of the very same subject property.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The petitioner had purchased the share of the Dhandapani in respect of the property comprised in S.No.817 in which 2/3 share and the property comprised in S.No.819 to an extent of 3 acre 78 cents along with Well right from the value and the land comprised in S.No.258/6 to an extent of 5 acre 54 cents along with the land comprised in S.No.612/2 of 1/4 share in the total extent of 14 acres and 74 cents from the vendor by the registered sale deed dated 30.09.2024 and presented for registration. The petitioner's vendor had purchased the subject property in the Court auction in E.P.No.164/1981 on the file of the District Munsif Court, Palani and was also issued the Sale Certificate after confirming the sale dated 18.01.1984. Thereafter, the petitioner's vendor



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filed a suit for partition and recovery of possession in O.S.No.15/1997 on the file of the District Munsif, Palani. The suit was decreed by judgment and decree dated 22.03.2007. However, aggrieved by the judgment and decree, the original owner of the property namely, the borrower filed an appeal suit in A.S.No.38 of 2007, on the file of the Sub Court, Palani and the same was allowed by the judgment and decree, dated 04.07.2011. Aggrieved by the same, the petitioner's vendor filed a second appeal in S.A(MD)No.1145 of 2011 before this Court. This Court by judgment and decree dated 30.09.2022 allowed the second appeal. It was also confirmed by the Hon'ble Supreme Court of India in Special Leave Petition (c) in Diary No.10664/2023, dated 07.07.2023. Pursuant to which, the petitioner had purchased the subject property. In the meanwhile, the petitioner's vendor also filed an application seeking final decree in I.A.No.772/2023 in O.S.No.15/1997 and it is pending. In the meanwhile, the original owner of the subject property and the borrower after succeeding in the appeal suit and while pending the second appeal sold to an extent of 3 acre 3 acre 28 cents out of 5 acre 54 cents in favour of one Saraswathi. Admittedly, the purchaser was pendente lite. That apart, Section 52 of the Transfer of Property Act says that while pending suit in respect of any right to immovable property is directly and specifically in question, the property cannot be transferred or otherwise dealt with by any party to the suit or



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proceedings so as to affect the rights of any other party thereto under any decree or order which may be made therein, except under the authority of the Court and on such terms as it may imposed.

4. In the case on hand, admittedly, the original owner of the property while pending second appeal sold out part of the property in favour of one Saraswathi, therefore, it cannot bind the petitioner's vendor to sell the subject property in favour of the petitioner.

5. In view of the above, this Court finds infirmity in the order passed by the third respondent, dated 10.12.2024 and it cannot be sustained and liable to be quashed.

6. Accordingly, the order of the third respondent dated 10.12.2024 is quashed and the writ petition is allowed. The petitioner is directed to represent the sale deed in respect of the subject property for registration and on receipt of the same, the third respondent is directed to register the same and release the document, if it is otherwise in order. No costs.

Internet : Yes
Index : Yes/No
Speaking/Non Speaking order
am

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To

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G.K.ILANTHIRAIYAN, J.

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