

(2007) 11 MAD CK 0206

In the Madras High Court

Case No : Writ Petition No. 9229 of 2007

Muthu Easwaran

APPELLANT

Vs

The District Collector and The Sub-Registrar

RESPONDENT

Date of Decision : 14-11-2007

Acts Referred:

Registration Act, 1908 — Section 22A

Citation : (2007) 11 MAD CK 0206

Hon'ble Judges : G. Rajasuria, J

Bench : Single Bench

Advocate : A. Sankara Subramaniam, for the Appellant; S.O. Paramasivam, for the Respondent

Judgement

G. Rajasuria, J.—A resume of facts absolutely necessary for the disposal of this writ petition would run thus:

2. The petitioner when attempted to get the sale deed dated 20.07.2005 registered in the Office of the Sub Registrar, Melur, the second

respondent herein, refused to register the sale deed by citing G.O.Ms. No. 150, Commercial Taxes dated 22.09.2000 and the circular issued by

the first respondent in Ne.Mu.Ka. Uni 4/7295/2003 dated 27.11.2003. Hence, the petitioner prays for quashing the Government Order and

circular concerned on the ground that those two directions emerged consequent upon the amendment to Section 22A of the Registration Act

brought about by the Tamil Nadu Government. However, Section 22A of the Registration Act is ultra vires the constitutional provisions.

3. According to the learned counsel for the petitioner, the impugned Government Order empowers the Sub-Registrar to refuse registration of the

document on the ground of public policy. The circular issued by the first

respondent dated 27.11.2003 would contemplate a No Objection

Certificate from the Director of Town Planning. The petitioner would further submit that even though the property had nothing to do with the Town

Planning, yet the first respondent issued such a direction based on the Government Order, which contemplates certain types of documents could

be got registered only after getting No Objection certificate from authorities concerned.

4. Learned counsel for the petitioner by placing reliance on decisions of a Division Bench of this Court in Captain Dr. R. Bellie and Dr. Smt.

Seetha Bellie Vs. The Sub Registrar, which emerged based on the Honourable Supreme Court decision rendered in State of Rajasthan and Others

Vs. Basant Nahata, , would develop his argument to the effect that the impugned Government Order and the circular issued by the first respondent

should be struck down.

5. Heard both sides.

6. It is apparent from the perusal of the aforesaid two Judgments that amendment to Section 22A of the Registration Act as brought about by the

Tamil Nadu Government was struck down as unconstitutional and as such the impugned Government Order and the circular also are having no

legs to stand. Since already the Division Bench passed orders to that effect, there is no necessity for me to once again probe into it and pass orders

afresh. The effect of the Division Bench Judgment, is of such a nature, so as to nullify the impugned Government Order as well as the impugned

circular and accordingly I declare the same.

7. During the pendency of the writ petition, in W.P.M.P. No. 9942 of 2005 dated 17.10.2005, the following interim order was passed:

Pending the writ petition and without prejudice to the contention of both parties, there will be a direction to the second respondent to register the

document subject to the result of the writ petition. This should be done within two weeks from the date of receipt of the copy of this order.

8. Subsequently, on 25.01.2007, the order dated 17.10.2005 made in W.P.M.P. No. 9942 of 2005 was made absolute. It appears as on date,

the petitioner has already got his relief. Unless the document which was ordered to be registered during the pendency of writ petition is against any

fresh provision of law or any other fresh Government Order, the order already

passed during the pendency of the writ petition shall hold good.

9. The writ petition is disposed of accordingly. No costs.