

W.P(MD)No.29522 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.11.2025

Pronounced on : 17.04.2026

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.29522 of 2025

and

W.M.P(MD)No.22834 of 2025

1.Sankarakumar

2.Pooranachelvi

... Petitioners

Vs.

The Sub Registrar,
Panpozhi Sub Registration Office,
Panpozhi, Tenkasi District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to quash the impugned refusal check slip in refusal Number RFL/Panpozhi/33/2025 dated 16.09.2025 issued by the respondent and consequently direct the respondent to register the Power of Attorney dated 16.09.2025 presented by the petitioner relating to Sy.No.33/3B1A1 situated at Theinpothai Village, Shenkottai Taluk, Tenkasi District, within time frame and pass such further or other orders as this Court



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may deem fit and proper in the facts and circumstances of the case.

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For Petitioners : Mr.N.Dilipkumar for Mr.S.Balamurugan

For Respondent : Mr.Veerakathiravan,

Additional Advocate General assisted by

Mr.D.Gandhiraj,

Special Government Pleader

ORDER

Heard Shri.N.Dilipkumar, the learned counsel for the petitioners and Shri.Veera Kathiravan, the learned Additional Advocate General appearing for the respondent.

2.The first petitioner herein purchased the petition mentioned lands comprised in S.No.33/3, Theinpothai Village, Shenkottai Taluk, Tenkasi District vide sale deed dated 18.03.2020 from one E.Karuppasamy. It was registered as Doc No.568/2020 on the file of the Panpozhi SRO. His vendor Karuppasamy, in turn, had purchased the same through two registered sale deeds bearing Doc.Nos.129 and 331 of 2019. The first petitioner wants to dispose of the said property. Hence, he executed a power of attorney in favor of the second petitioner. The said power of attorney dated 16.09.2025 was presented for registration before the respondent on 16.09.2025. The respondent declined to register the document by invoking Section 22A of the



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Registration Act and issued the impugned refusal check slip. Pointing out that an agricultural land measuring 45 cents had been plotted out into small pieces, he called upon the petitioners to re-present the document after getting approval from the Town and Country Planning Department. Challenging the stand of the registering officer, this writ petition has been filed.

3. Shri.N.Dilipkumar, the learned counsel for the petitioners elaborately and exhaustively argued the matter. He also filed notes on submissions. He contended that the property rights of the first petitioner are at stake and called upon this Court to quash the impugned refusal check slip and grant relief as prayed for.

4. Per contra, ontra, the learned Additional Advocate General submitted that the object behind Section 22A(2) of the Registration Act, 1908 is to ensure that there is no unplanned or haphazard development. He added that the property rights of individuals will have to be balanced with the larger public interest. He pointed out that when a learned Single Judge of this Court in WP No.426 of 2022 (***D.Rajamanickam v. The Sub Registrar, Salem West***) allowed a similar writ petition vide order dated 01.07.2024, it was reversed by the Division Bench vide order dated 06.10.2025 in W.A.No.3192/2024. Placing reliance on the said order, he pressed for dismissal of the writ petition.

5. I carefully considered the rival contentions and went through the



materials on record. The relevant provision is Section 22A(2) of the Registration Act, 1908. It reads as follows :

“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;

(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



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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

(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



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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.”.

6.The right to property ceased to be a fundamental right by virtue of the 44th constitutional amendment. But it continues to be a constitutional right. The Hon'ble Supreme Court recognised the right to property as a human right. Article 300A provides that no person shall be deprived of his property save by authority of law. The Hon'ble Supreme Court enumerated as many as 7 sub-rights in the context of right to property vis-a-vis land acquisition proceedings (vide (2024) 10 SCC 533 (*Kolkata Municipal Corporation Vs. Bimal Kumar Shah*)). In *Dharnidhar Mishra v. State of Bihar*, (2024) 10 SCC 605, it was held that the obligation to pay compensation, though not expressly included in Article 300A, can be inferred in that Article. Yet another right that can be culled out from Article 300A is the right to deal with the property. Without this, the principal right to property would become meaningless. Any constitutional expression will have to receive an expansive and meaningful construction. The words “deprived of his property” would also mean “deprived of his right over the property”. Deprivation can be total or partial. If one's right to deal with the property is taken away, it would amount to total deprivation. If restrictions are

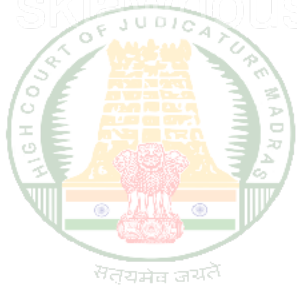


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imposed on this right, that would amount to partial deprivation. Section 22A of the Act is one such restrictive measure. Though its validity has been challenged, as on date, the provision is very much in the statute book. The presumption of constitutionality attaches to any statutory provision. I am, therefore, obliged to apply Section 22A of the Act while testing the claim put forth by the writ petitioners. Since Section 22A of the Act constitutes an inroad into the constitutional right to property provided under Article 300A, it has to be strictly construed. While provisions conferring rights have to receive liberal and expansive construction, provisions that make inroads into one's right will have to be strictly construed. In other words, the statutory text found in Section 22A will not expand like a balloon so as to enlarge the width of such intrusion.

7. Section 22A has three sub-sections. The case on hand pertains only to sub-section (2). It has already been extracted. The provision can be parsed and its effect can be summed up as follows :

1. The instrument must relate to transfer of ownership.
2. The land which is the subject matter of the instrument must have been converted into a house site.
3. Permission for development of such land from the concerned planning authority has not been obtained.
4. Planning authority means the authority constituted under Section



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11 of the Tamil Nadu Town and Country Planning Act, 1971 and includes CMDA established under Section 9A of the said Act.

5. The registering officer shall refuse to register such an instrument.

Sub-section (1)(i) of Section 22A of the Registration Act deals with immovable properties belonging to a local authority also. This expression “local authority” has been defined in Explanation I. The expression “planning authority” found in sub-section (ii) has been defined in Explanation II. Explanation I has no relevance to sub-section (2) with which we are now concerned. As already mentioned, sub-section (2) forbids registration of instruments relating to transfer of ownership of lands converted as house sites without the planning authority’s permission for such development.

8.Section 22A of the Registration Act will have to be read in conjunction with the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972). The said Act provides for planning the development and use of rural and urban land in the State of Tamil Nadu. The expression “planning area” has been defined in Section 2(30) as follows :

“Planning area” means any area declared to be a regional planning area, local planning area or a site for a new town (or the Chennai Metropolitan Planning Area or any Urban Planning Area) under this Act ;”



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Section 9-A pertains to Chennai Metropolitan Planning Area and it has no relevance to the case on hand. Section 11 of the said Act provides for constitution of town and country planning authorities such as the “regional planning authority”, the “local planning authority”, or the “new town development authority”. The statutory scheme underlying Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972) envisages planning areas and non-planning areas. The authorities constituted under Section 11 of the Act deal only with development in planning areas. Development on any land in an area other than the planning area is dealt with in Section 47-A of the Act. Under Section 47-A of the Act, any person intending to carry out any development on any land in an area other than planning area shall make an application in writing to the local authority. The local authority shall before according permission shall obtain the prior concurrence of the Director. In the case of wet lands, the prior concurrence of the Collector of the District concerned is necessary. Since the expression “local authority” is not found in Section 22A(2), Section 47-A of the Act 35 of 1972 cannot be invoked while interpreting Section 22A(2) of the Registration Act. If a land owner wants to develop the land in a non-planning area under Section 47A of the Tamil Nadu Town and Country Planning Act, 1971, he will have to go before the local authority and not to the planning authority. In such a case, he cannot obtain permission from the planning authority. There is a legal maxim that law will not compel the performance of an impossible act.



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Section 22A(2) of the Registration Act talks of planning authority and this expression cannot be enlarged to include the local authority. This is on account of the exhaustive definition assigned to the term “planning authority” in Explanation II. “Local authority” has been independently defined in Explanation I. It will be improper to expand the scope of the provision to the lands in areas other than planning areas. A land owner wanting to develop his land in a non-planning area cannot obtain permission from the planning authority as defined in Section 22A of the Registration Act. Since Section 22A(2) of the Act requires strict construction, I hold that it deals only with lands in a planning area. In other words, Section 22A(2) of the Act cannot be cited or invoked when the instrument relates to transfer of ownership of lands in an area other than a planning area.

9. Section 22A(2) of the Act will come into play only if the subject matter of the instrument is a house site. If the land owner sells a piece of agricultural land, it would not attract the prohibitory sweep of Section 22A(2) of the Act. The object of the Registration Act, 1908, is to provide a method of public registration of documents so as to give information to the people regarding legal rights and obligations arising or affecting a particular property. In other words, the object of registering the document is to give notice to the public at large that the document has been executed to prevent



fraud and forgery and to secure a reliable and complete amount of all the

transactions affecting the title to the property (***M/s.Latif Estte Line India Ltd.***

vs. Mrs.Hadeeja Ammal, 2011-1-L.W. 673). The offices of the Registrar and

Sub Registrars are creatures of the statute under Sections 6 and 7 of the

Registration Act, 1908. They are executive authorities and do not have any

inherent power. They can only exercise such powers as have been

conferred on them by law. Section 34 of the Act speaks of registering

officer's satisfaction and his power to enquire. The registering officer shall

(a) enquire whether or not the document presented before him was executed

by the persons by whom it purports to have been executed; (b) satisfy himself

as to the identity of the persons appearing before him and alleging that they

have executed the document; and (c) in the case of any person appearing as

a representative, assign or agent, satisfy himself of the right of such person

so to appear. No quasi judicial power is available with the registering officer

(vide ***Satya Pal Anand v. State of M.P. (2016) 10 SCC 767***). The function of

the sub registrar is purely administrative and not quasi judicial (vide ***Park***

View Enterprises vs. State Government of Tamil Nadu AIR 1990 Mad

251). There is no provision in the Registration Act that enables a registering

officer to enquire into the veracity of the description of property that is the

subject matter of the instrument. In other words, if the executant of the

document describes a property sold as a piece of agricultural land, the

registering authority cannot go behind the description and conclude that what



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is being sold is a house site and not an agricultural land. In other words, the registering officer has to go by an apparent tenor of the description of the property set out in the instrument.

10.I have held the roster dealing with the subject of registration on earlier occasions. In my judicial experience, I have seen that the registering officers take the view that an illegal layout has been formed if in the description of four boundaries, a pathway has been shown and such a description is absent in the parent or antecedent title deeds. Section 22A(2) does not authorise the registering officer to arrive at such a conclusion on the strength of four boundary descriptions set out in the instrument. If a person owns an acre of agricultural land and wants to sell half of it and retain the other half, to avoid future disputes, portions may have to be earmarked as pathways. That would not mean that the property has been converted as a house site or an illegal layout has been formed. Thus, the next conclusion which I arrive at is that the registering officer has no authority to conduct an enquiry with regard to the character of the land that is the subject matter of the instrument and will have to go by the description set out in the instrument itself. Showing a pathway as a boundary will not by itself mean that an agricultural land has been converted as a house site.



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11. It is also seen that the registering officers come to the conclusion that

what is being conveyed is a house site by taking into account the extent of the land sold. In fact, I have also endorsed such an approach. I am now having second thoughts. Section 2(13) of the Tamil Nadu Act 35 of 1972, makes it clear that the use of any land for the purpose of agriculture, gardening or forest (including afforestation) would not constitute development. The buyer can use even a few cents of land for the purpose of gardening and it is not open to the registering authority to question his wisdom. The extent of the land conveyed is an irrelevant consideration for the registering officer while applying Section 22A of the Registration Act. Likewise, the registering officers should not proceed to apply Section 22A (2) of the Act on the ground that the land in question does not form part of an approved layout. Nowhere in said provision, there is any reference to approved layouts. Even individual plots can be regularised and approved.

12. The registering officers will apply the provision in the manner indicated above and if the document passes muster, he has no option but to register the same.

13. Section 22A(2) of the Act will come into play only if the instrument relates to the transfer of ownership of the land. Shri.N.Dilipkumar, the learned counsel for the petitioners argued that the instrument in question is merely a



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power of attorney and therefore, the question of invoking Section 22A(2) of the Act will not arise at all. The provision does not deal only with instruments by which transfer of ownership is effected. It deals with instruments “relating to transfer of ownership of lands”. The power of attorney by itself does not result in transfer of ownership. But it is definitely an instrument that relates to transfer of ownership. The very purpose of executing a power of attorney is to authorise a power agent to execute a document on behalf of the principal. Considering the object of the statutory provision, I hold that a power of attorney also falls within the scope of Section 22A(2) of the Registration Act.

14.In the case on hand, the executant himself has described the subject matter as a house site. It ex facie attracts the rigour of Section 22A. I am not in a position to quash the impugned refusal check slip. But no material has been placed before me to show whether the land in question is falling within a planning area or it is outside. If the land in question falls outside the planning area, obviously, Section 22A of the Act will not be applicable and the impugned refusal check slip is liable to be quashed. I therefore give liberty to the petitioner to re-present the document if the land in question is not within the planning area. In the event of re-presentation of the document, the registering officer has to act in the manner indicated above. Even if the land in question falls within the planning area, still the petitioner has an option. A person can plan, change his plan or drop his plan. There is no estoppel in this



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regard. It is open to the petitioner to authorise the second petitioner to deal with the property as a piece of agricultural land. 45 cents of agricultural land belonging to the petitioner can be parcelled into five units and sold accordingly. The only restriction is that the petitioner cannot convert them as house sites on his own without getting permission from the authority concerned.

15.At the same time, I have to necessarily address the concerns expressed by the learned Additional Advocate General. That can be easily met by directing a person who wants to take advantage of this judgment to execute an affidavit in four sets. In the affidavit, it must be undertaken by the parties to the document that no development of the land in question will take place without getting permission from the authority concerned. Thus, all lands notwithstanding their location are covered. One set should be filed before the court if direction is invited from the court. The second set/affidavit should form part of the document and it shall also be scanned and registered. The third set should be sent to the local authority/planning authority. The fourth set should be sent to the jurisdictional officer of TANGEDCO. If the undertaking is breached, the party committing the breach will invite contempt action as well as the other penal consequences.



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16.I am conscious that the judgment rendered by His Lordship

Mr.Justice N.Sathish Kumar in **D.Rajamanickam** case was reversed by the Hon'ble Division Bench in W.A.No.3192/2024 dated 06.10.2025. In para 14 of the said judgement, it was noted that the subject property therein was admittedly a house site. This is what had triggered the prohibitory sweep of Section 22A(2). The Hon'ble Division Bench had only frowned upon affidavits filed to the effect that the parties will not use the house site for construction of any residential building. When the property is admittedly a house site and it attracts Section 22A(2), the rigour cannot be mitigated or offset by filing an undertaking affidavit. The statutory effect cannot be nullified by resorting to such methods. One cannot have any quarrel with the approach laid down by the Hon'ble Division Bench in the above case. But the issues that have been decided in this order were not considered by the Division Bench.

17.This writ petition is disposed of accordingly. I will be failing in my duty if I do not place on record my appreciation for the excellent assistance rendered by Shri.N.Dilipkumar. Someone whispered loudly in my ears sometime back that such appreciation should be reserved only for amicus. I disagree. No Judge can deliver a proper verdict unless the counsel concerned make illuminating arguments. With the aid of the arguments of the learned counsel for the petitioner, I have been able to dispose of 164 cases today. That is why encomium is due for the learned counsel for the petitioner



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Mr.N.Dilipkumar. No costs. Consequently, the connected miscellaneous petition is closed.

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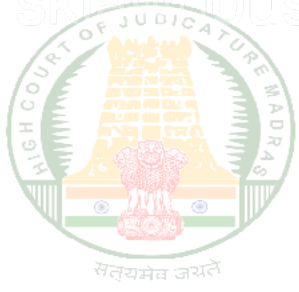
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To

The Sub Registrar,
Panpozhi Sub Registration Office,
Panpozhi, Tenkasi District.



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G.R.SWAMINATHAN, J.

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