



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) No.11592 of 2017

P.Sankar

... Petitioner

-vs-

1. The District Surveyor,
Tirunelveli District,
Tirunelveli.

2. The Sub-Registrar,
Melapalayam,
Tirunelveli.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to notice issued by the 2nd respondent dated 07.06.2017 and quash the same and consequently direct the 2nd respondent herein to register the Lease Rental Agreement, relating to vacant site of Arulmigu Muppidari Amman Thirukoil, Melakulavanigarpuram, Tirunelveli, situated in T.S.No. 16/4 of Kulavanigarpuram Village, Palayamkottai Taluk, Tirunelveli District on the basis of the petitioner's representation dated 02.06.2017.

For Petitioners

: Mr.M.Sankar

For Respondents

: Mr.T.S.Mohamed Mohideen

Addl. Govt. Pleader

O R D E R

This writ petition has been filed, seeking to quash the impugned notice issued by the 2nd respondent dated 07.06.2017, by which, the petitioner's request for registration of the lease rental agreement stood rejected. The petitioner also sought a direction to the 2nd respondent herein to register the Lease Rental Agreement, relating to vacant site of Arulmigu Muppidari Amman Thirukoil, Melakulavanigarpuram, Tirunelveli, situated in T.S.No. 16/4 of Kulavanigarpuram Village, Palayamkottai Taluk, Tirunelveli District on the basis of his representation dated 02.06.2017.



2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3. It is represented by the learned counsel for the petitioner that the petitioner is the President of Arulmigu Muppudari Amman Thirukoil, situated at Tirunelveli, which is maintained by the private people. When the petitioner attempted to execute a Lease Rental Agreement for letting out the vacant site of the temple, the 2nd respondent has refused to register the same. It is further represented that the 2nd respondent has passed a cryptic order, rejecting the request of the petitioner by merely citing the provisions of Section 22-A of the Registration Act. Therefore, aggrieved by the same, the petitioner is before this Court, questioning the same.

4. On the other hand, the learned Additional Government Pleader appearing for the respondents would submit that the provision cited in the impugned order operates as a bar in registration of properties, belonging to Temples, Wakf Board etc. and therefore, the request of the petitioner cannot be acceded to and there is no irregularity in passing the impugned order.

5. Heard both sides and perused the records placed on record.

6. A perusal of the impugned order would amply reveal the fact that it is in the form of non-speaking order. The Hon'ble Supreme Court and this Court time and again insisted on the requirement of recording reasons and the quasi judicial order must be a speaking one. The Hon'ble Supreme Court in the case of *Mahabir Prasad Santosh Kumar vs. State of U.P.*, reported in (1970) 1 SCC 764 held that merely giving an opportunity of hearing is not enough and further pointed out that where the order is subject to appeal, the necessity to record reason is even greater. Recording of reasons in support of a decision on a disputed claim ensure that the decision is not a result of caprice, whim or fancy, but was arrived at after considering the relevant law and that the decision was just.

7. Considering the facts and circumstances of the case and in the light of the judgment of the Hon'ble Supreme Court (cited supra), this Court is of the view that the impugned order has no legs to stand and is liable to be set aside.

8. In fine, this writ petition is allowed and the impugned order dated 07.06.2017 is set aside. The matter is remitted to the second respondent for fresh consideration, who, in turn, shall pass a speaking order, of course a speaking order, on the matter on merits and in accordance with law, after affording due opportunity of hearing to the petitioner, within a period of six



weeks from the date of receipt of a copy of this order. No costs.
Sd/-
Assistant Registrar(P&A)

/True copy/

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Sub Assistant Registrar

To:

1. The District Surveyor,
Tirunelveli District,
Tirunelveli.

2. The Sub-Registrar,
Melapalayam,
Tirunelveli.

+1cc to Mr.M.SANKAR,Advocate,SR. 89259

W.P (MD) No.11592 of 2017
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