

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 13.07.2020
CORAM
THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
W.P.No.29852 of 2019
and W.M.P.No.29758 of 2020

A.Ahamed Aarif Asim,
Son of Late M.A.Ahamed Bajlulaz,
Represented by his Mother and Power of Attorney Agent,
Halima,
No.7/630, 6/499,
Jew Town, Mattancheri,
Ernakulam,
Kerala.Petitioner

vs.

- 1.The Inspector General of Registration,
Santhome High Road,
Pattinapakkam,
Chennai - 600 028.
- 2.The Sub-Registrar,
Nallur,
Tiruppur District.
- 3.The Assistant Commissioner,
The Hindu Religious and Charitable Endowment Department,
Arulmigu Visweswara Swamy & Veeraragava Perumal Temples,
Easwaran Koil Street,
Tirupur - 641 604.Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for Refusal Check Slip of the second respondent in No.RFL/Nallur-Tiruppur/34/2019 dated 30.09.2019 and quash the same as illegal and unsustainable and further direct the second respondent to admit the register Sale Deed dated 30.09.2019 executed by the petitioner herein in favour of Shameerum Begum wife of Ibrahim Shriiff with respect to Plot No.13 Part measuring an extent of 1549 Sq.ft in the approved layout known as Sri Bannari Amman Gardens (Approved layout MaVa/TLPA No.5/2005 dated 24.05.2005) comprised in S.No.228 part situated at Nallur Village, Tiruppur Taluk, Tiruppur District.

For Petitioner : Mr.V.P.Sengottuvel

For Respondents: Mr.T.M.Pappiah
Special Government Pleader
for R1 and R2
: Mr.M.Karthikeyan
Special Government Pleader for R3

O R D E R

This writ petition has been filed challenging the Refusal Check Slip issued by the second respondent by memo dated 30.09.2019 and for a consequential direction to direct the second respondent to admit and register the Sale Deed executed by the petitioner.

2. Mr.V.P.Sengottuvel, learned counsel appearing on behalf of the petitioner submitted that the subject property originally belonged to one P.Appu Kutty. The said P.Appu Kutty sold 2 Plots viz. Plot No.12 measuring an extent of 2080 ½ sq.ft and Plot No.13 measuring an extent of 4579 ½ sq.ft to one R.Natarajan son of Rangasamy Gounder under sale deed dated 08.06.2006 bearing Doct.No2069/2006 on the file of Sub-Registrar Nallur. The learned counsel for the petitioner further submitted that the said R.Natarajan sold Plot No.13 part measuring to an extent of 1549 sq.ft out of 4579 ½ sq.ft to one M.Askar Ali. The learned counsel also submitted that the petitioner herein purchased Plot No.13 part measuring to an extent of 1549 sq.ft out of 4579 ½ sq.ft from the said M.Askar Ali under Sale Deed dated 16.10.2009 bearing Doct.No.3634/2009 on the Sub-Registrar, Nallur and the petitioner is absolutely in possession and enjoyment of the subject property.

3. The learned counsel further submitted that the petitioner decided to sell Plot No.13 part measuring an extent of 1549 sq.ft out of 4579 sq.ft to one Shameerun Begum and hence arrangements were made to prepare the Sale deed and the same was presented before the second respondent. The grievance of the petitioners is that the second respondent refused to admit the document for registration on the ground that the property stands in the name of the Hindu Religious and Charitable Endowment Department (HR &CE) Department. The refusal Check Slip, which is the subject matter of challenge in the present writ petition, reflects the fact that the registration was refused on the ground that the property belongs to the Hindu Religious and Charitable Endowment Department (HR & CE) Department.

4. The learned counsel further developed his argument by placing reliance on the judgment of the Divisional Bench of this Court in W.P.No.30589 of 2013 etc., dated 05.04.2017 and it was submitted that the second respondent ought to have followed the procedure as directed by the Court in the Judgment that has been referred and without doing the same the second respondent went ahead refusing to admit the document for registration. The learned counsel also placed reliance upon the subsequent orders passed by this Court relying upon the Division Bench Judgment stated above. The learned counsel concluded his argument by submitting that the impugned Refusal Check Slip will have to be set aside and the matter has to be remanded to the second respondent to follow the procedure as directed by the Hon'ble Division Bench of this Court.

5. Heard Mr.T.N.Pappiah, learned Special Government Pleader appearing for the first and second respondent and Mr.M.Karthikeyan, learned Special Government Pleader appearing for the third respondent.

6. The issue that has been raised in the present writ petition is no longer res-integra and this Court has been repeatedly directing the office of the Sub-Registrar to follow the directions issued by the Division Bench and inspite of the same, it is found that documents are being returned back with a Refusal Check Slip in every case. Every time, the aggrieved executant of the document are forced to approach of this Court, challenging the Refusal Check Slip and every time this Court is reiterating and directing the concerned Sub-Registrar are either unaware of the directions given by the Division Bench or they are mechanically refusing registration without taking into account the judgment of the Division Bench.

7. This is yet another case where Refusal Check Slip has been issued in a mechanical fashion without following the direction given by the Division Bench of this Court.

8. In view of the above , the Refusal Check Slip issued by the second respondent is hereby set aside and the petitioner is directed to re-submit the document to the second respondent. On such re-submission, the second respondent is directed to follow the direction given by the Division Bench scrupulously and thereafter take a decision with regard to the registration of the document.

9. The writ petition is accordingly allowed with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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To:

- 1.The Inspector General of Registration,
Santhome High Road,
Pattinapakkam,
Chennai - 600 028.
- 2.The Sub-Registrar,
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+1 cc to M/s.Government Pleader sr24714

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