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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.07.2021

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P. No.3735 of 2021

Gnanam

...Petitioner

Vs

1.The Inspector General of Registration,
100, Santhome High Road,
Chennai - 28.

2. The District Registrar,
Tiruppur,
Tiruppur District.

3. The Sub Registrar,
Nallur, Thirupur District.

4. The Executive Officer,
Arulmigu Visvasuvaraswami,
Visalachiamman Subramniasami Temple,
Nallur, Tirupur District.

5. The Tahsildar,
Tiruppur District.
(R5 suo-motu impleaded vide
order dated 19.04.2021)

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the entire records pertaining to the impugned refusal Check Slip. RFL/Nallur-Tirupur/17/2021 dated 27.01.2021 on the file of the 3rd respondent and quash the same and consequently direct the 3rd respondent to register the sale deed presented by the petitioner dated 27.01.2021 for an extent of 1744 sq.t., in S.F.No.291/5A2 in Nallur Village, Tirupur Taluk and District.

For petitioner ... Mr. Suryanarayanan,
for Mr.K. Sudhakar

For respondents ... Mr. Yogesh Kannadasan,
Government Advocate
for R1 to R3 & R5



... Mr. K. Ashok Kumar
for R4

ORDER

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This writ petition has been filed challenging the order passed by the Sub-Registrar/3rd respondent refusing to register the sale deed presented by the petitioner on the ground that the 4th respondent/Temple has raised objection regarding the title of the property.

2. According to the petitioner, the petitioner has purchased the property in Survey No.291/5A2 in Nallur Village, Thiruppur District, from one Baggiam, which was allotted to her in a partition suit in O.S.No.387 of 2019 dated 11.03.2020. Thereafter, the petitioner has presented the document for registration before the 3rd respondent and the 3rd respondent refused to register the same stating that there is objection from the 4th respondent with regard to title over the property. Now, challenging the same, the present writ petition has been filed.

3. The learned counsel for the petitioner would submit that the petitioner's vendor and her family members purchased the property in the year 2019 and thereafter, in the partition suit in O.S.No.387 of 2019, the subject property has been allotted to the vendor of the petitioner and the petitioner has purchased the property for a valid consideration. But, without conducting any enquiry whatsoever and also without giving opportunity to the petitioner to prove her title, the 3rd respondent/Sub-Registrar mechanically returned the documents with the check slip stating that there is objection from the Tamilnadu Hindu Religious and Charitable Endowments Department.

4. The learned counsel for the 4th respondent/Temple would vehemently opposed the petition stating that the property belongs to Visalachiamman Subramaniasami Temple, Nallur, Tirupur District and the petitioner's vendor has no right over the property and she has fraudulently sold the property in favour of the petitioner. Hence, they raised objection before the Sub-Registrar under Section 22-A of the Registration Act. Considering the objection, the Registrar refuses to register the document and there is no illegality in it.

5. The learned Government Advocate appearing for the respondents 1 to 3 and 5 also supported the order passed by the Registrar stating that considering the objection raised under Section 22-A of the Registration Act, the Registrar rightly rejected the document.



6. I have considered the rival submissions and perused the materials available on records carefully.

7. From the perusal of the records, it could be seen that the 3rd respondent/Sub-Registrar, without conducting any enquiry whatsoever, has simply returned the document based on the objection raised by the 4th respondent/Temple. If at all any objection is filed under Section 22-A of the Registration Act, the Sub Registrar is duty bound to conduct enquiry. Only after give opportunity to the person, who presented the document, the Sub-Registrar can pass order. In a similar circumstances, the Division Bench of this Court in a case of Sudha Ravi Kumar /vs/ The Special Commissioner & Commissioner, Hindu Religious and Charitable Endowments Department, Chennai and 2 others reported in 2017(3) CTC 135 held as follows :-

"25. In view of the above discussions, all the writ petitions are allowed and the impugned orders are set aside with the following directions:-

i. The registering authority before whom the document has been presented shall cause service of notice on the parties to the deeds and also to the objector/religious institution, hold summary enquiry, hear the parties and then either register or refuse to register the document by passing an order having regard to the relevant facts as indicated above.

ii. If the registering authority, refuse to register any document by accepting the objections raised under Section 22-A of the Registration Act, the aggrieved may file a statutory appeal under the Act.

iii. If the objections raised under Section 22-A of the Act by the religious institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a writ petition seeking cancellation of the registration or for any other relief or to approach the civil court for declaration of title and for other consequential reliefs.

iv) If the registering authority refuses to register the document acting on the objections raised by a Religious Institution under Section 22-A of the Registration Act, the parties to the deed will be at liberty to straight away approach the civil court for declaration of title and other relief without availing the opportunity for filing a statutory appeal .



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v) we further direct that if the deed has already been registered without there being any objection by the religious institution under section 22-A of the Act, the document shall be returned to the parties concerned leaving it open for the religious institution to approach either the High Court under Article 226 of the constitution of India or the Civil Court for appropriate relief as indicated above. At any rate, the registering authority shall not withhold the deed, which has already been registered."

8. Considering the above circumstances, and the fact that the order has been passed without conducting enquiry whatsoever, in violation of natural justice, the refusal check slip given by the 3rd respondent is set aside and the matter is remitted back to the 3rd respondent/Sub-Registrar and the 3rd respondent is directed to conduct enquiry by giving opportunity to the petitioner as well as the 4th respondent/Temple, and after considering the objection and the documents filed by them, the 3rd respondent is directed to pass final orders on merits and in accordance with law within a period of twelve(12) weeks from the date of receipt of a copy of this order.

9. With the above directions, this Writ Petition is disposed of. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

mrp
To

1. The Inspector General of Registration,
100, Santhome High Road,
Chennai - 28.
2. The District Registrar,
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Tiruppur District.
3. The Sub Registrar,
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4. The Executive Officer,
Arulmigu Visvasuvaraswami,
Visalachiamman Subramniasami Temple,
Nallur, Tirupur District.

5. The Tahsildar,
Tiruppur District.

+1 CC to Mr.K. Sudhakar, Advocate sr 31364.

+1 CC to Mr.K. Ashok Kumar, Advocate sr31491.

+1 CC to The Government Pleader sr 31971.

W.P. No.3735 of 2021

SKY(CO)
SP(02/08/2021)