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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.NO.25544 OF 2021

AND

WMP.NO.26962 OF 2021

M.E.Siddiqua

...Petitioner

Vs

1.The Commissioner,
Hindu Religious & Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai 600 034

2.The Executive Officer,
Arulmigu Agastheeswarar Prasanna Venkatesa Perumal,
Thirukkoil,
11, North Mada Street,
Nungambakkam,
Chennai 600 034

3.The Joint Sub Registrar II,
District Registrar Cadre,
Thousand Lights,
Chennai 600 006

...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned refused check slip issued by the third respondent vide refusal No.RFL/Chennai Central Joint-II/4/2021 dated 13.09.2021 and directing the third respondent to permit the petitioner to register indentures of any nature including sale, settlement and mortgage etc, in respect of her property situated at Door No.7, Jayalakshmipuram 3rd Street, Seetha Nagar, Nungambakkam, Chennai 600 034 comprised in survey Nos.341, 477/18, 477(Part) situated in Nungambakkam Village purchased by her vide registered sale deed in document No.578 of 1992 dated 27.06.1992 on the file of the Sub Registrar, Thousand Lights uninfluenced by the letter issued by the second respondent dated 15.12.2020.



For Petitioner : Mr.D.Saikumaran

For Respondents

For R3 : Mr.Yogesh Kannadasan,
Special Government Pleader

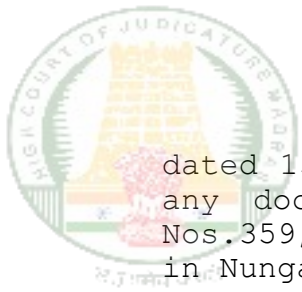
For R1 : Mr.T.Chezhiyan,
Additional Government Pleader

ORDER

This writ petition is filed to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned refused check slip issued by the third respondent vide refusal No.RFL/Chennai Central Joint-II/4/2021 dated 13.09.2021 and directing the third respondent to permit the petitioner to register indentures of any nature including sale, settlement and mortgage etc, in respect of her property situated at Door No.7, Jayalakshmipuram 3rd Street, Seetha Nagar, Nungambakkam, Chennai 600 034 comprised in survey Nos.341, 477/18, 477(Part) situated in Nungambakkam Village purchased by her vide registered sale deed in document No.578 of 1992 dated 27.06.1992 on the file of the Sub Registrar, Thousand Lights uninfluenced by the letter issued by the second respondent dated 15.12.2020.

2. Heard, Mr.D.Saikumaran, the learned counsel for the petitioner, Mr.Yogesh Kannadasan, Special Government Pleader appearing for the third respondent, and Mr.T.Chezhiyan, Additional Government Pleader appearing for the first respondent.

3.The petitioner purchased the property situated at Door No.7, Jayalakshmipuram 3rd Street, Seetha Nagar, Nungambakkam, Chennai comprised in survey Nos.341, 477/18, 477(Part) situated in Nungambakkam Village by registered sale deed registered vide document No.578 of 1992 dated 27.06.1992 from one, N.Meeran and N.Sherif. Thereafter, the petitioner intended to settle the property in favour of her daughter since her husband faced huge losses in business and in order to clear the debts, to alienate the said property, intended to settle the same in favour of her daughter. Her daughter undertook to repay the debts. Therefore, the petitioner executed settlement deed in favour of her daughter and presented for registration before the third respondent on 13.09.2021. However, the third respondent instead of registering the settlement deed, refused to register the same and issued the impugned check slip dated 13.09.2021 for the reason that the second respondent had given objection letter



dated 15.12.2020 requesting the third respondent not to register any document pertaining to its property comprised in survey Nos.359, 451, 452, 465, 466, 467, 469, 472, 477 and 480 situated in Nungambakkam.

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4. The said objection was raised by the second respondent for the reason that one public interest litigation writ petition was filed by one Mohanraj in WP.No.9336 of 2018 for direction directing the Commissioner, HR&CE Board to consider the representation and pass orders regarding illegally selling the temple property of Lord Agastheeswarar temple. The said writ petition was disposed of by order dated 19.02.2019 by directing the authorities of the HR&CE Department to consider the petitioner's representation and if the contentions of the petitioner are true, keeping in mind the provisions of the above statutes, decisions rendered in the suits filed for possession by the erstwhile trustees, besides the steps to be taken recovering the properties belonging to Agastheeswarar temple. In fact, the said Mohanraj also filed contempt petition in Cont.P.No.1331 of 2019 which was dropped with liberty to the said Mohanraj to raise the outstanding issues pertaining to the encroachment or the failure to remove the encroachers or wrongful alienation by way of further proceedings. In pursuant to the same, the second respondent filed objections dated 15.12.2020 before the third respondent for the reason that the contempt petition is pending. However, now the contempt petition is dropped by order dated 21.10.2021 with the above said observations. Without considering the same, the third respondent issued check slip and thereby returned the settlement deed which was presented for registration.

5. In view of the above, the impugned check slip is liable to be set aside. Accordingly, the impugned check slip dated 13.09.2021 is set aside. The petitioner is directed to represent the settlement deed dated 13.09.2021 / any deed of conveyance in respect of the property situated at Door No.7, Jayalakshmipuram 3rd Street, Seetha Nagar, Nungambakkam, Chennai comprised in survey Nos.341, 477/18, 477(Part) situated in Nungambakkam Village for registration before the third respondent. On receipt of the same, the third respondent is directed to conduct enquiry on the objections raised by the second respondent after giving opportunity of hearing to both the parties, in the light of the orders passed in the writ petition in WP.No.9336 of 2018 dated 20.02.2019 and the contempt petition in Cont.P.No.1331 of 2019 dated 21.10.2021 and pass orders to register the settlement deed dated 13.09.2021 / any deed of conveyance presented for registration on merits and in accordance with law.



6. With the above directions, this writ petition is allowed. Consequently, connected miscellaneous petition is closed. No order as to costs.

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Sd/-
Deputy Registrar

// True Copy //

Sub Assistant Registrar

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To

- 1.The Commissioner,
Hindu Religious & Charitable Endowments Department,
No.119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai 600 034
- 2.The Executive Officer,
Arulmigu Agastheeswarar Prasanna Venkatesa Perumal,
Thirukkoil,
11, North Mada Street,
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Chennai 600 034
- 3.The Joint Sub Registrar II,
District Registrar Cadre,
Thousand Lights,
Chennai 600 006.

+1cc to M/s.D.Saikumaran, Advocate SR.No.63973

+1cc to the Special Government Pleader SR.NO.63227 & 63440

WP.No.25544 of 2021

RP(CO)
RVM(09/12/2021)