



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. [MD]No.2943 of 2022

M.Jeevananth

... Petitioner

Vs.

The Sub Registrar,
Karur West,
Karur.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the respondent vide his proceeding in Refusal No:RFL/MELAKARUR/40/2021 dated 01.12.2021 and quash the same as illegal and ultravires and consequently direct the respondent to register the settlement deed dated 25.11.2021 and release the same.

For Petitioner : Mr.A.N.Ramanathan
For Respondent : Mr.S.Shanmugavel
Additional Government Pleader

O R D E R

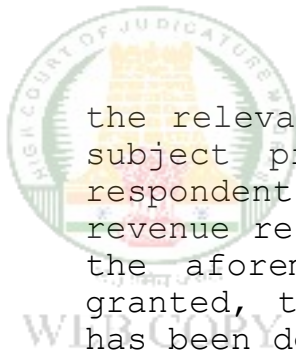
This writ petition has been filed challenging the refusal slip dated 01.12.2021 issued by the respondent refusing to register the settlement deed in which the petitioner is a settlee.

2.The main grievance of the petitioner is, opportunity ought to have been given to him before issuing the impugned refusal slip.

3.Heard Mr.A.N.Ramanathan, learned counsel appearing for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader who accepts notice on behalf of the respondent.

4.Learned Additional Government Pleader on instructions would submit that the subject property is a Waqf property and therefore the respondent has rightly issued the refusal slip dated 01.12.2021, refusing to register the settlement deed. He has produced before this Court a letter issued by the subject Mosque dated 19.09.2020 to the District Registrar informing him that the subject property is owned by the said Mosque and it is a Waqf property. He has also produced a copy of the revenue records pertaining to the subject property and he submits that as per the revenue records the subject property is a Waqf property.

5.Learned Counsel for the petitioner submits that sufficient opportunity ought to have been given to the petitioner to place all



the relevant documents in support of the petitioner's case that the subject property is not owned by the Waqf as alleged by the respondent. He also submits that the petitioner is also having revenue records to show that the petitioner is the absolute owner of the aforementioned property but since opportunity has not been granted, the legitimate right of the petitioner to prove his title has been defeated.

6. After giving due consideration to the aforementioned factors, this Court is of the considered view that no prejudice would be caused to the respondent if the impugned refusal slip dated 01.12.2021 is set aside and a fresh enquiry is conducted by the respondent with regard to the classification of the subject property as to whether it is a Waqf property or not, after affording a fair opportunity of hearing to the petitioner as well as the Mosque which claims that the subject property is a Waqf property. Since opportunity has not been granted under the impugned refusal slip, this Court has to necessarily set aside the said refusal slip on the ground of violation of principles of natural justice.

7. Accordingly, the impugned refusal slip dated 01.12.2021 issued by the respondent is hereby set aside and the matter is remanded back to the respondent for fresh consideration on merits and in accordance with law. The respondent is directed to afford a fair opportunity of hearing to the petitioner and the Mosque which claims that the subject property is a Waqf property and also any other necessary party and thereafter pass final orders with regard to the permissibility of registration of the settlement deed presented by the petitioner for registration with the respondent within a period of twelve [12] weeks from the date of receipt of a copy of this order.

8. With the aforesaid direction, the Writ Petition stands disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (W)

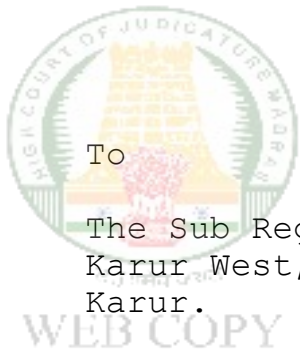
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/ /2022

Sub Assistant Registrar(CS)

MR

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

The Sub Registrar,
Karur West,
Karur.

+1 CC to M/s.SPL GP (SR-6800[F] dated 17/02/2022)

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