



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.3884 of 2022

WEB COPY

C.Thulasi Dhas

.. Petitioner

Vs

1.The District Registrar,
District Registrar Office,
Sivagangai District.

2.The Sub Registrar,
Kalayarkovil Sub Registrar Office,
Kalayarkovil,
Sivagangai District.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned Refusal Check Slip in Refusal Number: 2/2022 in RFL/Kalaiyarkovil/Book 2/1 dated 21.01.2022, passed by the 2nd respondent herein and quash the same as illegal and further direct the 1st respondent herein to enquire the matter by conducting a summary enquiry as mandate in the light of the Judgment reported in 2017 (3) CTC 135 and 2020 (3) CTC 785 with respect to Survey No.132/2 to an extent of 1 acre 52 cents and Survey No: 132/4 to an extent of 75 cents in Malakandam Village, Karaikudi Taluk, Sivagangai District.

For Petitioner : Mr.V.Meenakshi Sundaram

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader

ORDER

This writ petition has been filed challenging the refusal check slip issued by the second respondent, dated 21.01.2022, refusing to register the sale deed presented for registration by the petitioner, on the ground that a partner of M/s.Mangalam Aqua Products, has made an objection.

2.Heard Mr.V.Meenakshi Sundaram, the learned counsel for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader, who accepts notice on behalf of the respondents.



3.The petitioner has filed this writ petition on the ground of violation of principles of natural justice. He submits that he is a resident of Kerala and he was called for enquiry on 10.01.2022. But, since notice of hearing was intimated to him only on 10.01.2022, i.e., the date of hearing, even though the notice was dated 31.12.2021, he was unable to participate in the enquiry. According to him, his non participation is not wilful or wanton. But, only, due to the reasons stated above.

4.The fact of the non appearance of the petitioner on the date of enquiry is not disputed by the learned Additional Government Pleader. It is only that a partner of M/s.Mangalam Aqua Products, the seller, has objected to the registration of the sale deed, the sale deed was rightly refused to be registered by the second respondent. He would also contend that only in accordance with the Circular issued by the Inspector General of Registration, which stipulates that in case of non appearance, the second respondent has to reject the presentation of registration, the second respondent has rightly refused to register the sale deed, which was presented for registration under the impugned order.

5.However, since the petitioner categorically contends that the Seller is empowered to execute the sale deed and in view of the fact that the petitioner, who is the purchaser under the said sale deed, was unable to attend the enquiry as he has received the notice, only on 10.01.2022 i.e., the date of enquiry, even though the notice was, dated 31.12.2021, this Court is of the considered view that he must be given an opportunity to satisfy the second respondent about the validity of the sale deed and the right of M/s.Mangalam Aqua Products, to register the sale deed in his name. Since opportunity has not been granted by the second respondent as seen from the impugned order, this Court is of the considered view that principles of natural justice has been violated for the aforementioned reasons. Therefore, the impugned refusal order, dated 21.01.2022, refusing to register the sale deed presented by M/s.Mangalam Aqua Products, for registration has to be quashed and the matter has to be remanded back to the second respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner and other necessary parties.

6.Accordingly, the impugned refusal order, dated 21.01.2022, refusing to register the sale deed presented by M/s.Mangalam Aqua Products, for registration is hereby quashed and the matter is remanded back to the second respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner including opportunity of personal hearing and also hear any other necessary parties and pass orders within a period of eight weeks from the date of receipt of a copy of this order. In case, it is found that the objection made by the third party, who claims to be a partner of M/s.Mangalam Aqua Products is found to be

<https://hccservices.courts.gov.in/hccservices> the sale deed, if it is otherwise in order.



7. With the aforesaid directions, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS III)

WEB COPY/TRUE COPY/

/ /2022
Sub Assistant Registrar (CS)

TM

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

1. The District Registrar,
District Registrar Office,
Sivagangai District.
2. The Sub Registrar,
Kalayarkovil Sub Registrar Office,
Kalayarkovil,
Sivagangai District.

+1 CC to M/s.D.NALLATHAMBI, Advocate (SR-10094[F] dated 04/03/2022)

W.P. (MD) No. 3884 of 2022
03.03.2022

MK/18.03.2022/3P/4C