



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2022

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P. (MD) .No.3960 of 2022

Pushpavalli

... Petitioner

Vs.

The Sub Registrar,
Kariapatti,
Virudhunagar District.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the refusal check slip issued by the respondent vide Refusal Number: RFL/Kariapatti/3/2022 dated 28.02.2022 and quash the same as illegal and unconstitutional and consequently direct the respondent to accept the sale deed dated 28.02.2022 presented by the petitioner for registration in respect of property in S.No.31/217 admeasuring 1321.75 sq.ft of Kattukuthakai Karisalkulam Village, Kariapatti Taluk, Virudhunagar District and release the same after completion of legal formalities within the time that may be fixed by this Court.

For Petitioner : Mr.S.Balamurugan
For Respondent : Mr.S.Shanmugavel
Additional Government Pleader.

ORDER

This Writ Petition has been filed challenging the refusal order dated 28.02.2022 issued by the respondent refusing to register the sale deed presented by the petitioner for registration on the ground that the house site covered under the said document is unapproved.

2. Heard Mr.S.Balamurugan, learned counsel for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader, who accepts notice for the respondent.

3. Learned counsel for the petitioner submits that the respondent has not taken into consideration the fact, that earlier documents were registered for the very same house site, before passing the impugned order. According to him, the respondent has also not taken into consideration, Section 22-A(2) of the Registration Act, which empowers the respondent to register the document, in case earlier documents were registered for the very same house site without planning permission.



4. Section 22-A(2) of the Registration Act reads as follows:

"22-A. Refusal to register certain documents -

Notwithstanding anything contained in this Act, the registering officer shall refuse to register any of the following documents, namely:-

.....
(2) *instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such land from planning authority concerned :*

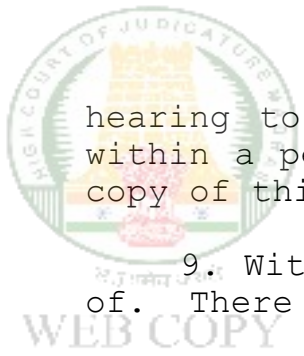
Provided that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as house site."

5. The petitioner has also challenged the impugned refusal order on the ground of violation of principles of natural justice as she has not been afforded an opportunity of hearing by the respondent before passing the impugned order. As seen from the impugned order, the petitioner has not been afforded any opportunity of hearing. The sale deed presented by the petitioner has been refused to be registered under the impugned order.

6. Section 22-A(2) of the Registration Act, referred to supra, empowers the Registration Department to register house sites without planning permission, if there were earlier registered documents for the very same house site. In the case on hand, the petitioner claims that for the very same property, previous registrations are there and they are bearing Document No.2302/2018 dated 27.09.2018. Admittedly, neither Section 22-A(2) referred to supra has been considered nor the petitioner was afforded any opportunity of hearing before passing final orders which is the subject matter of challenge in this Writ Petition.

7. In view of the violation of principles of natural justice and in view of the passing of a non-speaking order, this Court has to necessarily quash the impugned order and remand the matter back to the respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner.

8. Accordingly, the impugned order passed by the respondent is hereby quashed and the matter is remanded back to the respondent for fresh consideration on merits and in accordance with law, after affording a fair hearing to the petitioner including granting her the right of personal hearing and also permit her to file a written explanation with regard to her contentions along with her supporting authorities. On receipt of the same and after affording a personal



hearing to the petitioner, the respondent shall pass final orders within a period of twelve (12) weeks from the date of receipt of a copy of this order.

9. With the aforesaid direction, this Writ Petition is disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

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,
Kariapatti,
Virudhunagar District.

+1 CC to M/s.SPL GP (SR-11545[F] dated 11/03/2022)

+1 CC to M/s.S.BALAMURUGAN, Advocate (SR-11687[F] dated 11/03/2022)

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SS/22.03.2022 : 3P/4C