



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE **ABDUL QUDDHOSE**

W.P. (MD)No.5174 of 2022

1.Shanthi Devi

2.Raja Rajeswari

.. Petitioners

Vs

1.The District Registrar,
District Registrar Office,
Palayamkottai,
Tirunelveli District.

2.The Sub Registrar,
Sub Registrar Office,
Kovilpatti,
Tuticorin 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 2nd respondent relating to his refusal Check Slip dated 15.03.2022, vide refusal No.RFL/Kovilpatti/11/2022 and quash the same and direct the 2nd respondent to register the partition deed, dated 01.02.2022 and return the document after registration.

For Petitioner : Mr.K.Chellapandi, Senior Counsel for
Mr.A.K.Baskarapandiyan

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader

ORDER

This writ petition has been filed challenging the refusal check slip, dated 15.03.2022, issued by the second respondent refusing to register the partition deed, dated 01.02.2022, presented by the petitioners for registration, on the ground that the Tamilnadu Real Estate (Regulations and Development), Rules 2017, will apply and G.O.Ms.No.79, Housing and Urban Development (UD4(3)), Department, dated 04.05.2017, gets attracted and therefore, the partition dated cannot be registered.



2. Heard Mr.K.Chellapandi, learned Senior Counsel for the petitioners and Mr.S.Shanmugavel, learned Additional Government Pleader, who accepts notice on behalf of the respondents.

3. The petitioners have challenged the impugned order on the ground of violation of principles of natural justice as well as on the ground that the respondents by total non application of mind to the Tamilnadu Real Estate (Regulations and Development) Rules 2017 and G.O.Ms.No.79, Housing and Urban Development (UD4(3)), Department, dated 04.05.2017, has refused to register the partition deed presented by the petitioners for registration.

4. According to the petitioners, both the G.O.Ms.No.79, Housing and Urban Development (UD4(3)), Department, dated 04.05.2017, as well as the Tamilnadu Real Estate (Regulations and Development) Rules, 2017, have no applicability to the document presented by the petitioners for registration. According to the petitioners, they are from the same family and have purchased the property jointly in the year 1996 by a registered sale deed. They are not promoters to come within the ambit of Tamilnadu Real Estate (Regulations and Development), Rules, 2017. Therefore, according to them, by total non application of mind, the impugned Refusal Check Slip has been issued.

5. The learned Senior Counsel for the petitioners drew the attention of this Court to the impugned order. As seen from the impugned order, the contentions raised by the petitioners in this writ petition have not been considered. No opportunity of hearing has been granted to the petitioners with regard to the contentions raised by them in this writ petition. Therefore, the respondents have violated the principles of natural justice.

6. Hence, this Court is of the considered view that the impugned order has to be necessarily 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 petitioners, including granting them the right of personal hearing, within a time frame to be fixed by this Court.

7. For the foregoing reasons, the impugned refusal check slip, dated 15.03.2022, issued by the second respondent 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 petitioners including granting them the right of personal hearing and the respondents shall pass final orders, within a period of eight weeks from the date of receipt of a copy of this order. The petitioners are permitted to produce all necessary documents / authorities, in support of their contentions as raised in this writ petition before the second respondent.



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

Sd/-

Assistant Registrar (Writs)

// True Copy //

WEB 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,
Palayamkottai,
Tirunelveli District.

2. The Sub Registrar,
Sub Registrar Office,
Kovilpatti,
Tuticorin District.

+1 CC to M/s.SPL GP (SR-14520[F] dated 25/03/2022)

+1 CC to M/s.A.K.BASKARA PANDIYAN, Advocate (SR-14159[F] dated 24/03/2022)

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