



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. [MD]No.7351 of 2022

and

W.M.P. [MD]No.5578 of 2022

Mumtaj

... Petitioner

/Vs./

1. The District Registrar (Registration),
Office of the District Registrar,
Sivagangai District,
Sivagangai.

2. The Joint Sub Registrar -II,
Sivagangai,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call far the entire records pertaining to the Refusal Check Slip dated 23.12.2021 in Refusal Number. RFL/Sivagangai Joint II/2/2021 issued by the 2nd respondent, quash the same and further direct the 2nd respondent to register the Memorandum of Deposit of Title Deeds dated 06.12.2021 executed by the Petitioner.

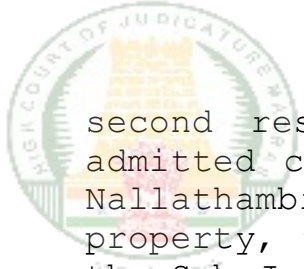
For Petitioner : Mr.P.Pethu Rajesh

For Respondent : Mr.J.John Rajadurai
Government Advocate

ORDER

This writ petition has been filed challenging the impugned refusal check slip dated 23.12.2021 issued by the second respondent refusing to register the memorandum of title deeds presented by the petitioner for registration on the ground that there is a decree for partition in O.S.No.27 of 2008 in which, one Ranjitham, sister of the petitioner's vendor's vendor was allotted half share in the property.

2.The petitioner has challenged the impugned refusal check slip on the ground of violation of principles of natural justice and also on the ground that by total non-application of mind to the documents produced by the petitioner, the impugned refusal check slip has been issued. According to the petitioner, the



second respondent failed to consider the fact that it is an admitted case that the vendor's vendor of the petitioner, namely Nallathambi is having right to sell half share of the undivided property, which was allotted to him as per the decree granted by the Sub Judge, Sivagangai in O.S.No.27 of 2008.

3. According to the petitioner, this being the case, title claimed by the petitioner's vendor's vendor, Nallathambi and subsequently, by the petitioner's vendor, Manjula in favour of the petitioner is perfectly valid out of the undivided half share of her vendor's vendor, Nallathambi and memorandum of deposit of title deed that she executed in favour of Tamil Nadu Mercantile Bank Limited, Sivagangai Branch by drawing her title from the undivided half share of her vendor's vendor is absolutely right and the second respondent does not have any right to refuse to register the said documents.

4. Heard Mr.P.Pethu Rajesh, learned Counsel for the writ petitioner and Mr.J.John Rajadurai, learned Government Advocate, who accepts notice on behalf of the respondents.

5. Admittedly, as seen from the impugned refusal check slip, no opportunity of personal hearing was granted to the petitioner. The documents relied upon by the petitioner, which have been filed along with this writ petition have also not been considered. The contentions of the petitioner as stated supra have also not been considered by the second respondent.

6. Since no opportunity of hearing has been granted to the petitioner, this Court is of the considered view that the second respondent has violated the principles of natural justice. Being a non-speaking order, with regard to the contentions of the petitioner that have been raised in this writ petition, this Court is also of the considered view that the impugned refusal check slip dated 23.12.2021 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 petitioner and any other necessary party, whom the second respondent deems fit to enquire, including granting them the right of personal hearing.

7. For the foregoing reasons, the impugned refusal check slip dated 23.12.2021 passed by the second respondent is hereby quashed and the matter is remanded back to the second respondent for fresh consideration and the second respondent is directed to pass final orders on merits and in accordance with law, after affording a fair hearing to the petitioner and any other necessary party, whom the second respondent deems fit to enquire, including granting



them the right of personal hearing within a period of eight (8) weeks from the date of receipt of a copy of this order. The petitioner is permitted to produce all the relevant documents in support of her case before the second respondent.

8. With the above direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The District Registrar (Registration),
Office of the District Registrar,
Sivagangai District,
Sivagangai.

2. The Joint Sub Registrar -II,
Sivagangai,
Sivagangai District.

+1 CC to M/s.P.PETHU RAJESH, Advocate
(SR-19801[F] dated 20/04/2022)

+1 CC to M/s.SPL.GOVERNMENT PLEADER
(SR-20464[F] dated 22/04/2022)

order made in
W.P.[MD]No.7351 of 2022
and
W.M.P.[MD]No.5578 of 2022
20.04.2022

SP/11/05/2022/3P/5C