

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.9371 of 2020

R.Dinesh Sigamony

... Petitioner

/vs./

1.The District Registrar,
Kanyakumari Registration District,
Kanyakumari District,
Office at Nagercoil.

2.The Sub Registrar,
Manavalakurichi,
Kalkulam Taluk,
Kanyakumari District.

3.The District Collector,
Kanyakumari District,
Office at Nagercoil.

4.The Tahsildar,
Kalkulam Taluk,
Thuckalai Post,
Kanyakumari District.

5.The Boothan Board,
Commissionerate of Land Reforms,

Ezhilagam,
Chepauk,
Chennai 600 005.

(R5 has been impleaded
vide order dated 28.09.2020)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the refusal check slip in Refusal No.RFL/Manavalakurichi/15/2020 dated 03.07.2020 issued by the second respondent herein in respect of document (Deposit of Title Deeds dated 03.07.2020) in Temporary Registration No.TP/92430997/2020 and the consequential order passed by the second respondent in No.148/2019 dated 09.07.2020 and quash the same as illegal and further direct the first respondent herein to consider the petitioner's representation dated 13.07.2020.

For Petitioner : Mr.V.Meenakshi Sundaram for
Mr.D.Nallathambi

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2.The petitioner wanted to avail loan from the Canara Bank. The petition mentioned property was offered as security. Memorandum of Deposit or title deeds was presented before the 2nd respondent for registration. The 2nd respondent took the view that the property in question is a Government land and declined to register the document. To that effect, the impugned refusal check slip was issued. Questioning the same, the present writ petition has been filed.

3.As rightly pointed out by the learned counsel for the writ petitioner, before issuing the impugned refusal check slip, a summary enquiry must be conducted. In this case, without doing so, it had been issued. While dealing with the case involving HR & CE Department, the Hon'ble Division Bench in the decision reported in **2017 (3) CTC 135 (Sudha Ravi Kumar and Others vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department and Others)** had issued the following directions:-

"(i) The registering authority before whom the document has been presented shall cause service of notice on the parties to the deeds and also to the objector/religious institution, hold summary enquiry, hear the parties and then either register or refuse to register the document by passing an order having regard to the relevant facts as indicated above.

(ii) If the registering authority, refuses to register any document by accepting the objections raised under Section 22-A of the Registration Act, the aggrieved may file a statutory appeal under the Act.

(iii) If the objections raised under Section 22-A of the Act by the religious institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a writ petition seeking cancellation of the registration or for any other relief or to approach the civil Court for declaration of the title and for other consequential reliefs.

(iv) If the registering authority refuses to register the document acting on the objections raised by a religious institution under Section 22-A of the Registration Act, the parties to the deed will be at liberty to straightaway approach the Civil Court for declaration of title and other relief without availing the opportunity for filing a statutory appeal.

(v) We further direct that if the deed has already been registered without there being any objection by the religious institution under Section 22-A of the Act, the document shall be returned to the parties concerned leaving it open for the religious institution to approach either the High Court under Article 226 of the Constitution of India or the Civil Court for appropriate relief as indicated above. At any rate, the registering authority shall not withhold the deed which has already been registered.”

In my view, a similar approach can be adopted in the present case also.

4. Respectfully following the said decision of the Hon'ble Division Bench, the matter is remitted to the file of the 2nd respondent, who shall adhere to the aforesaid directions and act on similar lines. The impugned refusal check slip is quashed.

5. The writ petition is allowed, accordingly. No costs.

Index : Yes / No

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Internet : Yes / No

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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

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Kanyakumari District,
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G.R.SWAMINATHAN, J.

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