



WEB COPY



W.P.No.1732 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.1732 of 2023

P.Rathish Kumar

.... Petitioner

-Vs-

1.The Joint-II Sub Registrar
Tiruppur, Tiruppur District.

2.The Executive Officer
A/m Vishweshwaraswamy and
Veeraraghaperumal Temple
Tiruppur Town and District.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the Impugned Refusal Check Slip in Refusal Number RFL / 2 Joint Sub Registrar Tiruppur / 17 / 2022 dated 20-12-2022 passed by the 1st respondent herein and quash the same as illegal arbitrary and violation of constitutional Right and consequently direct the 1st respondent herein to accept admit and register the instruments/Documents pertaining to the portion of land and house bearing Plot No. 101 to an extent of 2400 Sq.ft comprised in Old Village S.No.125 (Old Block No.7 Old T.S.NO. 13/1) New T.S.Ward A New Block No.26 New T.S.No. 46 situated at Door Nos. 4(1)/2 4/2 Ayyan Nagar 5th Street Ward L Tiruppur Village Parapalayam Area Mangalam Road, Tiruppur Town Taluk and District.



W.P.No.1732 of 2023

For Petitioner : Mr.P.Dinesh Kumar
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader – for R1
Mr.K.Karthikeyan
Government Advocate – for R2

ORDER

The prayer sought for herein is for a Writ of Certiorarified Mandamus calling for the records pertaining to the Impugned Refusal Check Slip in Refusal Number RFL / 2 Joint Sub Registrar Tiruppur / 17 / 2022 dated 20-12-2022 passed by the 1st respondent herein and quash the same as illegal arbitrary and violation of constitutional Right and consequently direct the 1st respondent herein to accept admit and register the instruments/Documents pertaining to the portion of land and house bearing Plot No. 101 to an extent of 2400 Sq.ft comprised in Old Village S.No.125 (Old Block No.7 Old T.S.NO. 13/1) New T.S.Ward A New Block No.26 New T.S.No. 46 situated at Door Nos. 4(1)/2 4/2 Ayyan Nagar 5th Street Ward L Tiruppur Village Parapalayam Area Mangalam Road, Tiruppur Town Taluk and District.

2. The petitioner presented a mortgage deed for registration to the 1st respondent. The same has been refused for registration by the 1st respondent and a refusal check slip also has been issued dated 20.12.2022 which is impugned herein. On a perusal of the impugned check slip, this Court finds that



W.P.No.1732 of 2023

the following reason has been given.

WEB COPY

“ Government / HR & CE / Wakf Board / Boomidhan /
Panchami Lands”

3. From the said reason, no one can find out that, whether any objection has come from the Government / HR & CE / Wakf Board / Bhoomidhan movement or Authority concerned with Panchami lands. Actually what is the objection that has come to the 1st respondent for registering this document in question has not been stated by the 1st respondent.

4. The very same 1st respondent in a similar situation, while passing a refusal check slip has passed the very same order containing the very same reason. That has also been challenged before this Court in W.P.No.1446 of 2023, where I have considered the issue and passed the following order,

“ 5. I have gone through the said reason given by the respondent in the impugned order, which says “the Government/H.R. & C.E./ Wakf Board/ Boomidharn /Panchami Lands”, from which, nobody can understand, from whom such objection has come, either from the Government or from the H.R & C.E. Department or from the Wakf



W.P.No.1732 of 2023

Board or from the Boomidhan or from the Panchayat Board or from the Panchayat authority.

6. This kind of evasive reason cannot be given by the Registering Authority within the meaning of either under Section 22-A or under Section 22-B of the Registration Act, 1908. Therefore, the respondent, if at all has got any specific objection from any of the party to reject the document, that should have been specifically mentioned in the order and based on which, if any refusal is made, it is open to the petitioner to face the same and agitate the same in the manner known to law and hence, this Court has no hesitation to hold that the reason stated in the present format in the impugned order cannot be sustained in the eye of law. Hence, for the said reason alone, the impugned order is to be interfered with.

7. In the result, the following orders are passed in this writ petition:

- ◆ *That the impugned order is set aside and the matter is remitted back to the respondent for reconsideration.*
- ◆ *While reconsidering the same, it is open to the respondent to invite both the petitioner as well as the person, who has given such objection either from the Government or from the H.R.& C.E. Department or from the Wakf Board or from the Boomidhan or from the Panchayat Board and accordingly, after conducting a limited enquiry, a decision can be arrived at by the Registering Authority and ultimately, he can pass orders, if he still wants to refuse it, otherwise, the document if is in order, there can be no further impediment for the respondent to register the same.”*

5. This is the second case from the very same 1st respondent, who dealt with this kind of cases in a similar fashion giving reason that objection has



W.P.No.1732 of 2023

come from the Government / HR & CE / Wakf Board / Bhoomidhan movement or Authority concerned with Panchami lands.

6. This kind of irresponsible act on the part of the officials like the 1st respondent can no more be tolerated. Therefore, the Inspector General of Registration is hereby directed to sensitize this kind of officers to issue proper reasons while rejecting the documents presented for registration and if at all any objection or protest has come from the Government / HR & CE / Wakf Board / Bhoomidhan movement or Authority concerned with Panchami lands, or any other local authority that should be specifically stated as to from which authority such objection has come and without knowing the reason, the aggrieved party cannot approach any forum to redress his/her grievance. Therefore, this kind of generalized statements in a cavalier manner cannot be made by the registering authority and that in fact would go against the provisions of the Registration Act.

7. In that view of the matter, this Court is inclined to dispose of this writ petition with the following order.

- That the impugned order is set aside and the matter is remitted back to the 1st respondent for reconsideration.



W.P.No.1732 of 2023

- While reconsidering the same, if at all any objection has come from any of the authorities mentioned in the impugned refusal check slip, that should be specified by the 1st respondent and the copy of such objection also to be furnished to the petitioner who presented the document for registration and if still the 1st respondent feels that such objection from any such authority is a hindrance or reason for refusing the registration of the document, that should be properly intimated to the petitioner in writing through a refusal check slip and in that case it is for the petitioner to work out his remedy in the manner known to law.
- Otherwise, if the 1st respondent accepts the document and the document in question is otherwise in order, it is open to the 1st respondent to register the document in accordance with law.
- Registry is directed to send a copy of this order to the Inspector General of Registration for information and to take necessary action.

8. With these observations, the writ petition is disposed of by remitting the matter back to the 1st respondent as indicated above. No costs.

24.01.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order / Non-speaking order
KST
To

1.The Joint-II Sub Registrar
Tiruppur, Tiruppur District.



W.P.No.1732 of 2023

2.The Executive Officer
A/m Vishweshwaraswamy and
Veeraraghaperumal Temple
Tiruppur Town and District.



WEB COPY



W.P.No.1732 of 2023

R. SURESH KUMAR, J.

KST

W.P.No. 1732 of 2023

24.01.2023