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W.P.No.3952 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.3952 of 2023

Poovathal

.. Petitioners

vs

1. The Inspector General of Registration
Kamarajar Salai, Santhome, Chennai.
2. The Deputy Inspector General of Registration
No.6/1, GRD Road, Opp. Air Force Admin College
Red Fields, Coimbatore – 641 018.
3. District Registrar, Collector Office Compound
State Bank Road, Coimbatore – 641 018.
4. The Sub Registrar
Periyanaickenpalayam Registration Office
Coimbatore.
5. The Executive Officer
Veerapandi Town Panchayat, Coimbatore.

.. 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 entire records pertaining to the refusal check slip vide refusal number: RFL/Periyanayakampalayam/79/2022, dated 29.10.2022 on the file of the fourth respondent, quash the same and consequently direct the fourth respondent to register and release the document presented on 29.10.2022, kept as pending document number P-148/2022, re-presented on 01.12.2022 vide Receipt No.33647/2022, within a time frame.



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For Petitioner : Mr.K.Balasubramaniam
For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader
for respondents 1 to 4
Mr.L.S.M.Hasan Fizal
Additional Government Pleader
for respondent 5

ORDER

Prayer sought for herein is for a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the refusal check slip vide refusal number: RFL/Periyanayakampalayam/79/2022, dated 29.10.2022 on the file of the fourth respondent, quash the same and consequently direct the fourth respondent to register and release the document presented on 29.10.2022, kept as pending document number P-148/2022, re-presented on 01.12.2022 vide Receipt No.33647/2022, within a time frame.

2. In respect of the property in question, relating to the Pending Document No.P-148/2022 on the file of the fourth respondent, the fourth respondent has given refusal check slip dated 29.10.2022, which is impugned in this writ petition.

3. It is to be noted that, insofar as the property in question, it belongs to the



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petitioner and this was given by way of gift to the fifth respondent for construction of school with the condition that the fifth respondent shall take effort to construct a school at an early date. The said gift was registered by deed dated 31.01.2002 by the petitioner to the fifth respondent. Further, after twenty years, no steps seems to have been taken by the fifth respondent for the construction of the school. Therefore, in order to cancel the gift deed made by the petitioner in favour of the fifth respondent, the petitioner had also approached the Civil Court and filed a Civil Suit in O.S.No.62 of 2021 on the file of the I Additional District Court, Coimbatore and the said Court accepted the plea of the petitioner and decreed the suit by judgment and decree dated 26.07.2022.

4. As against which, no appeal has been filed by the fifth respondent and a copy of the judgment and decree also have been registered in the fourth respondent office.

5. Thereafter, the petitioner presented a settlement deed for registering the document in question to the fourth respondent in respect of the very same property. However, the same has not been registered and released, for which, refusal check slip has been issued by the fourth respondent, which is impugned



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herein. Under which, the fourth respondent has stated that the fifth respondent / Town Panchayat wanted to prefer an appeal against the judgment and decree made in the civil suit, as referred to above. This is how, this writ petition has been filed challenging the impugned order.

6. Heard Mr.K.Balasubramaniam, learned counsel appearing for the petitioner and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 1 to 4 and Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader appearing for respondent 5.

7. Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader would submit that, though the decree has been obtained in favour of the petitioner against the fifth respondent in respect of the property in question, that cannot be a concluded one, as the fifth respondent has got every right to prefer an appeal against the said judgment and decree. Unless and until the judgment and decree is appealed and an ultimatum is given, the fourth respondent can wait till such time. That is the reason probably stated in the impugned check slip. Therefore, the learned Additional Government Pleader wants to stand the impugned order.



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8. I have considered the said submissions made by learned counsel appearing for both sides and have perused the materials placed before this Court.

9. Actually, the property in question belongs to the petitioner, which he voluntarily gifted or settled in favour to the fifth respondent under a condition for construction of the school. Since the said condition has not been complied with for more than two decades, the petitioner wanted cancellation of the same and therefore, he filed a civil suit, where, he got a decree in July, 2022 and that also have been registered by the fourth respondent office. Therefore, as on date, ultimately the petitioner has no impediment to enjoy the property. Therefore, as the owner of the property, he settled the said property and the document had been presented before the fourth respondent for registration. When that being so, the fourth respondent now has given this reason, as if the fifth respondent wanted to go on appeal.

10. If at all an appeal is to be filed by the fifth respondent, it is for the fifth respondent to do the same, for which, the fourth respondent / Registering Authority need not wait endlessly and that kind of power is not vested with the fourth respondent to await to prefer any appeal or to initiate any proceedings and



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till such time, the document presented by the petitioner cannot be retained or kept in as a pending document without registering the same.

11. The petitioner is the owner of the property and he has got the title in question, when that being so, there can be no further impediment for the fourth respondent / Registering Authority to entertain the same, if it is otherwise in order.

12. In that view of the matter, this Court feels that the impugned order would not stand in the legal scrutiny. hence, it is liable to be interfered with. In the result, the following orders are passed:

(i) That there shall be a direction to the fourth respondent / Sub-Registrar to entertain the document in question and to register the same, if it is otherwise in order, in the manner known to law, within a period of four weeks from the date of receipt of a copy of this order;

(ii) It is made clear that, such registration is subject to the appeal, if any preferred by the fifth respondent in the future, in the manner known to law.



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13. With these directions, the writ petition is disposed of. There will be no

order as to costs.

Index: Yes/No

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Neutral Citation :Yes/No
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To

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R. SURESH KUMAR, J.

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