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W.P.No.4201 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.4201 of 2023
and
W.M.P.No.4235 of 2023

P.Jayanthi

...Petitioner

-Vs-

The Sub Registrar,
Sub Registrar Office,
Sulur, Coimbatore – 641 018.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent relating to the impugned order bearing Refusal Number RFL/Sulur/20/2022 dated 08.10.2022 and quash the same and consequently direct the respondent to register the Settlement Deed executed by the petitioner dated 08.10.2022.

For Petitioner : Mr.T.Gowthaman, Sr. Counsel
for Ms.S.Karpagapriya

For Respondent : Mr.Yogesh Kannadasan,
Special Government Pleader



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ORDER

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2. On the strength of a registered sale deed dated 10.02.2006, the petitioner had purchased the properties comprised in Survey No.211. The Hindu Religious and Charitable Endowment Department [hereinafter referred to as 'H.R.&C.E. Department'], through the letter No.1250/2011/18/A7, dated 12.07.2012, had requested the respondent herein not to register any document pertaining to several survey numbers, including the petitioner's Survey No.211.

3. When the petitioner had sought for removal of the encumbrance made by the respondent in connection with the H.R.&C.E. Department letter dated 12.07.2012, the District Registrar had ultimately passed an order dated 27.06.2019, by observing that since the 'A' Register, as well as the patta stands in the name of the petitioner, the objections raised by the H.R.&C.E. Department in connection with the petitioner's Survey No.211 cannot be sustained and that the encumbrance made in this regard can be removed.



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Consequently, the letter of the H.R.&C.E. Department dated 12.07.2012 was also removed from the encumbrance pertaining to the petitioner's properties.

4. In this background, when the petitioner had presented a settlement deed executed by her in favour of her husband, the registration of the same was refused through the impugned check slip dated 08.10.2022, by quoting the objections raised by the H.R.&C.E. Department, through their letter dated 12.07.2012.

5. The learned Senior Counsel appearing for the petitioner submitted that the reason assigned in the refusal check slip cannot be sustained, in view of the order of the District Registrar dated 27.06.2019, which was pursuant to the directions of this Court passed in W.P.No.5239 of 2019, dated 25.02.2019 and since the order of the District Registrar was also implemented and the objections raised by the H.R.&C.E. Department, through the letter dated 12.07.2012, has been removed, the present reason cannot be sustained.

6. Per contra, the learned Special Government Pleader submitted that the respondent herein had verified the records maintained in their Office and



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had found that the Assistant Commissioner, H.R.&C.E. Department had raised objections through his letter dated 12.07.2012 with instructions to refrain from registering any documents pertaining to the property covered under the Settlement Deed, together with other properties and hence, they are not in a position to effect registration.

7. The reason assigned by the respondent for refusing registration cannot be sustained, for the simple reason that the District Registrar, being a competent authority, had adjudicated the claim of the petitioner that the petitioner's properties comprised in Survey No.211 does not belong to the H.R.&C.E. Department and had also directed for removal of the encumbrance through the objections raised by them in their letter dated 12.07.2012. While passing such orders, the H.R.&C.E. Department was also given opportunities. The order of the District Registrar dated 27.06.2019 has not been challenged by the H.R.&C.E. Department till date. On the other hand, the respondent had chosen to implement the order of the District Registrar by removing the encumbrance of the letter dated 12.07.2012 from the said properties. As such, when the letter has been held to be non-sustainable and baseless by the District Registrar in his order, which has become final, quoting the same



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objections as a reason for refusal to register the petitioner's Settlement Deed is illegal.

8. In the light of the above observations, the impugned refusal check slip dated 08.10.2022 is quashed. Consequently, there shall be a direction to the respondent herein to register the petitioner's Settlement Deed dated 08.10.2022, if it is otherwise in order, within a period of two weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

11.04.2023

Index:Yes/No
Speaking order/Non-speaking order
hvk

To

The Sub Registrar,
Sub Registrar Office,
Sulur, Coimbatore – 641 018.



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M.S.RAMESH,J.

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