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W.P.No.8972 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.8972 of 2022

S.Sivaselvan

... Petitioner

Vs

1.The Sub Registrar,
Vellakovil Sub Registration Office,
Vellakovil,
Tiruppur District.

2.Arulmighu Varadaraja Perumal Thirukovil,
represented by its Executive Officer,
Vellakovil,
Kangeyam Taluk,
Tiruppur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the first respondent in Refusal Check Slip Number RFL/Vellakovil/19/2022 dated 18.03.2022 and quash the same as illegal and arbitrary and without jurisdiction and consequently directing the first respondent to register the Sale Deed dated 27.01.2022 executed by the petitioner.



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For Petitioner : Mr.K.Suresh

For Respondents : Mr.Yogesh Kannadasan,
Special Government Pleader for R1

Mr.Yashwanth,
Additional Government Pleader for R2

ORDER

Heard Mr.K.Suresh, learned counsel for the petitioner, Mr.Yogesh Kannadasan, learned Special Government Pleader for the first respondent and Mr.Yashwanth, learned Additional Government Pleader for the second respondent.

2.This writ petition has been filed, challenging the Refusal Check Slip Number RFL/Vellakovil/19/2022 dated 18.03.2022, issued by the first respondent and seeking for a direction to the first respondent to register the Sale Deed dated 27.01.2022, executed by the petitioner.

3.When the petitioner had presented the Sale Deed dated 27.01.2022 in connection with the house site property, comprised in Old S.F. No.516/C and New S.F. No.1572/1A, Vellakovil Village on



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18.03.2022, the registration was refused by the first respondent through the impugned Check Slip dated 18.03.2022.

4.By placing reliance on Section 22-A of the Registration Act, which places embargo on the registering authority to register lands, which are claimed to be the lands of the religious institutions under the Hindu Religious and Charitable Endowments Department, learned counsel for the petitioner submitted that the scope of Section 22-A has been dealt with by this Court and while dealing with the authority of the registering offices, who unilaterally refuse such registration, without conducting any enquiry, the Division Bench, in the case of Sudha Ravi Kumar and another vs. The Special Commissioner and Commissioner and others reported in 2017 (3) CTC page 135, has held in the following manner:

'25.But this observation of ours shall not be construed that it is our conclusion that ryotwari patta issued to the ryot concerned is the final adjudication relating to the title for the property. We wish to clarify that the final adjudication regarding the title to the property can be had only before a Civil Court. We only say that at the time of registration of the



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deed, if any objection is made by the religious institution under Section 22-A of the Act, the registering authority shall issue notice afford opportunity to the parties, apply his mind and only from the materials available before him, if he is satisfied that the land belongs to the religious institution or given or endowed to the religious institution, then, he shall refuse to register such deed.

26. In view of the above discussions, all the writ petitions are allowed and the impugned orders are set aside with 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



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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.'

5. The aforesaid extract is self explanatory. Thus, whenever rival claim is made by a Religious Institution of the Hindu Religious Charitable Endowment Department, claiming ownership over any land in question, the registering authorities require to conduct summary enquiry



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by giving due opportunity to both the persons, presenting any document of conveyance as well as the Religious Institutions and thereafter, pass an order touching upon the objections raised.

6.In view of the aforesaid decision, the unilateral rejection of registration sought for by the petitioner, cannot be sustained. Accordingly, the impugned Check Slip Number RFL/Vellakovil/19/2022 dated 18.03.2022, issued by the first respondent is set aside. Consequently, there shall be a direction to the first respondent herein to conduct summary enquiry, after giving due opportunity to both the petitioner as well as the concerned Temple, which claims right over the subject properties and pass appropriate orders, within a period of eight weeks from the date of receipt of a copy of this order.

7.With the above directions, this writ petition stands disposed of.

No costs.

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Index:Yes/No

Speaking order/Non-speaking order

vga



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- 2.Arulmighu Varadaraja Perumal Thirukovil,
represented by its Executive Officer,
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M.S.RAMESH,J.

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