



W.P.No.12214 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12214 of 2023

M.A.Sumathi

...Petitioner

Vs.

1.The Principal Secretary,
Government of Tamil Nadu,
Department of Commercial Taxes and Registration,
Fort St. George,
Chennai – 600 009.

2.Inspector General of Registration,
Department of Registration,
No.100, Santhome High Road,
Chennai – 600 028.

3.Sub-Registrar,
Registrar Office,
Alandur,
Chennai.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 3rd respondent to quash the Refusal Slip RFL / Alandur / 12 / 2023 and direct her to register the sale deed presented on 05.04.2023.



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For Petitioner : Mr.V.Manisekaran

For Respondents : Mr.E.Sundaram,
Government Advocate

ORDER

The impugned refusal check slip issued by the third respondent in proceedings dated 05.04.2023 is sought to be quashed in the present writ petition.

2. The petitioner states that her son B.Abhiram aged about 33 years is having intellectual disability with 75% permanent disability in relation to his brain as per the guidelines (guidelines for the purpose of assessing the extent of Specified disability in a person included under Rpwd Act, 2016 notified by Government of India vide S.O.76 dated 04.01.2018).

3. The petitioner got the certificate for appointment of legal guardian of her son B.Abhiram under the Provisions of the National Trust Act, 1999 with Certificate No.171262144721131 dated 29.06.2018. The petitioner and her husband namely late V.Baskararaman were appointed as legal guardians. After the demise of the husband of the petitioner, she is taking care of her son. By virtue of legal heir certificate, the petitioner got 1/6th share out of ½ share of the whole property owned by her husband



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V.Baskararaman. The elder son of the petitioner who was the co-owner of the property was already possessing $\frac{1}{2}$ part of the property purchased by him, got in addition to that $\frac{1}{6}$ th share as he is one of the legal heir of late V.Baskararaman. The first son of the petitioner Mr.Karthick executed a settlement deed in favour of the petitioner on 06.09.2022. Accordingly, the petitioner is possessing $\frac{5}{6}$ th part of the whole property in E2, A Block, Vaikunth Apartment, 7th Street Extension, Lakshmi Nagar, Nanganallur, Chennai – 600 061. The son of the petitioner, B.Abhiram got $\frac{1}{6}$ th share in the said property.

4. The petitioner presented a sale deed for registration on 05.04.2023. The sale deed was returned along with the impugned Refusal check slip on the ground that the second vendor Mr.B.Abhiram is an intellectually disabled person and therefore, the petitioner has to produce the court order appointing her as his guardian.

5. Learned counsel for the petitioner relied on section 14(1) of The National Trust for Welfare of Persons with Autism, cerebral palsy, Mental Retardation and Multiple Disabilities Act, 1999. Section 14(1) enumerates that “a parent of a person with disability or his relative may make an



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application to the local level committee for appointment of any person of his choice to act as a guardian of the persons with disability.” Corresponding rules were framed in G.O.(Ms).No.28, Welfare of Differently Abled Persons (DAP 3.1) Department dated 27.07.2018. As per Rule 5, Limited guardianship can be appointed. The District Collector shall be the designated authority for the purpose of sub section 1 of section 14 of the Act. The Commissioner for Welfare of the Differently Abled shall be the appellate authority for the purpose of sub section 3 of section 14 of the Act. Thus, the District Collector has been notified as the designated authority under section 14(1) of the Act, who in turn is empowered to entertain application and issue certificate.

6. In the present case, the petitioner produced the certificate issued by the District Collector, Kancheepuram under section 14 of the Act, 1999. The said certificate was issued appointing the petitioner and her deceased husband as guardians. Since the father of the ward died, the petitioner is the guardian for the said B.Abhiram who is suffering intellectual disability. The said guardianship certificate issued under section 14(1) of the Act would satisfy the requirement for the purpose of completing the process of



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registration in the case of the petitioner. More so, the petitioner is the mother of the ward and a natural guardian and further, she possessed a guardianship certificate under the provisions of the National Trust Act, 1999. Thus, there is no impediment for the registering authority to proceed with the registration.

7. In view of the facts and circumstances, the impugned refusal check slip issued by the third respondent in proceedings No. RFL/Alandur/12/2023 dated 05.04.2023 is quashed. The registering authority is directed to proceed with the registration and complete the same by following the procedures as contemplated under the Act within a period of four(4) weeks from the date of receipt of a copy of this order.

8. Accordingly, the writ petition stands allowed. No costs.

03.08.2023

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Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No



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To

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S.M.SUBRAMANIAM, J.

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