



W.P.(MD)No.734 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2023

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.734 of 2021

1.Logambal

2.D.Sengodan

3.D.Thirumoorthy

4.Minor Aathmika

D/o.Thirumoorthy,
Represented by Guardian-Father,
D.Thirumoorthy.

5.Minor Aaganila

D/o.Thirumoorthy,
Represented by Guardian-Father,
D.Thirumoorthy.

6.P.Monisha

7.P.Rahul

... Petitioners

-VS-

1.The Sub Registrar,
West Karur Sub Registration Office,
Karur.



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2.The Tamil Nadu Wakf Board,
Represented by Superintendent of Wakf,
8/124, 2nd Floor, Kaiythe Millath Road,
Palakarai,
Trichy – 8.

... 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/West Karur/88/2020, dated 30.12.2020, quash the same as illegal and arbitrary and without jurisdiction and consequently, directing the first respondent to register the Mortgage Deed, dated 26.12.2020, executed by the petitioners.

For Petitioners	:	Mr.K.Suresh
For R1	:	Ms.D.Farjana Ghoushia Special Government Pleader
For R2	:	Mr.S.A.Ajmalkhan Standing Counsel

ORDER

This Writ Petition has been filed challenging the refusal check slip issued by the first respondent, dated 30.12.2020, on the ground that the registration of the mortgage deed cannot be done in view of the objections raised by the second respondent.



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2. Heard the learned counsel appearing on behalf of the petitioners, the learned Special Government Pleader appearing on behalf of the first respondent and the learned Standing counsel appearing on behalf of the second respondent.

3. A similar claim was made by the owner of the property in S.F.No. 2186/A at Andankovil East Village, Manmangalam Taluk, Karur District, before this Court in **W.P.(MD)No.12173 of 2020 [S.Vijayalakshmi vs. The Sub Registrar, West Karur Sub Registration Office, Karur]** and this Writ Petition was disposed of by order dated 17.03.2023, on the ground that there was no document available to show that the Waqf has any interest in the property.

4. In the considered view of this Court, if there is any objection raised by the second respondent, the first respondent ought to have conducted an enquiry in the light of the judgment of the Division Bench of this Court in **Sudha Ravi Kumar and others vs. The Special Commissioner and Commissioner of Hindu Religious and Charitable Endowments**



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Department, Chennai and others reported in 2017 (3) CTC 135. For

proper appreciation, Paragraph 25 of the judgment is extracted hereunder:-

"25. 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 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



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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.

(vi) Consequently the connected miscellaneous petitions are closed. No costs."

5. In view of the above, the refusal check slip issued by the first respondent, dated 30.12.2020, is hereby set aside. The matter is remanded back to the file of the first respondent. The first respondent shall deal with the claim made by the petitioner and the objection made by the second respondent and take a decision within a period of eight weeks from the date of receipt of a copy of this order.



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6. In the result, this Writ Petition is disposed of with the above directions. No costs.

NCC : Yes/No
Index : Yes/No
smn2

14.12.2023

To

- 1.The Sub Registrar,
West Karur Sub Registration Office,
Karur.
- 2.The Superintendent of Wakf,
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N.ANAND VENKATESH, J.

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