



W.P.(MD)No.385 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.385 of 2023

S.Ganesh Babu

... Petitioner

vs.

1.The Sub Registrar,
Sankarankovil Sub Registrar Office,
Tenkasi District.

2.Arulmigu Sankaranarayanamsamy Temple,
represented by its Executive Officer,
Sankarankovil, Tenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records in the impugned check slip, dated 30.12.2022 on the file of the first respondent and to quash the same as illegal and consequently, to direct the first respondent to register the deed for deposit of title deeds of the petitioner, dated 30.12.2022.

For Petitioner	:Mr.S.Kumar
For R1	:Mr.M.Prakash
	Additional Government Pleader
For R2	:Mr.V.R.Shanmuganathan



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ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with an impugned check slip, dated 30.12.2022 on the file of the first respondent/Sub Registrar, Sankarankovil, Tenkasi District and thereafter, to direct the first respondent to register the deed for Deposit of Title Deeds presented by the petitioner, dated 30.12.2022.

2.Heard Mr.S.Kumar, learned Counsel for the petitioner, Mr.M.Prakash, learned Additional Government Pleader for the first respondent and Mr.V.R.Shanmuganathan, learned Counsel for the second respondent.

3.The petitioner claims that a house site plot comprised in S.No. 674/2 at Kallappakulam village, measuring 4368 sq.ft., had been originally purchased by one Tmt.Shanmugavadivooammal, through a registered sale deed, dated 21.07.1980. Thereafter, her husband and her two daughters succeeded to the land. The petitioner had purchased the



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land on 10.04.2013 from the legal heirs of Shanmugavadivooammal.

The revenue records, like, patta, chitta and other records were mutated in the name of the petitioner herein. The petitioner had also mortgaged the property. He then applied for loan and also obtained a loan. He had also created a mortgage as security for the loan. Thereafter, he had executed a Deposit of Title Deed in favour of a finance company and presented the same for registration on 30.12.2022 before the first respondent. However, the first respondent refused to register it stating that a no objection certificate has to be obtained from the second respondent, namely, Arulmighu Sankaranarayana Temple at Sankarankovil in Tenkasi District. Questioning that particular check slip, the present Writ Petition had been filed.

4.A counter affidavit had been filed by the second respondent, wherein, it was stated that the land in question was a service inam land for the Parijarahars, who were working in the temple. It is stated that they sold the land to others. Therefore the service inam stood canceled and the Temple had taken steps to reclaim the lands. The title of the petitioner herein is directly disputed by the second respondent herein.



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5.The learned Counsel for the petitioner placed reliance on the order of a Division Bench of this Court, in quiet similar circumstances, which had also been followed by a learned Single Judge of this Court. The learned Single Judge in *P.Varadharajan vs Special Commissioner, HR & CE and others* [2020 3 CTC 785] had relied on the order of the Division Bench, and held as follows:

“4.Since the land was originally belonged to Sri Rangathaswamy Temple, it appears that there were some issues earlier and the petitioner's predecessor-in-interest was constrained to file a Writ Petition before this Court in W.P. (MD)No.22753 of 2019 for issuing a Writ of Mandamus to direct the third respondent to register the document in respect of the property belonging to the writ petitioner. This Court, after holding that the temple has no semblance of right and that the land was acquired long back by the Society, issued a direction to the Registering Authority to register the document, if the second respondent did not give any objection within three weeks from the date of receipt of a copy of that order. It was, thereafter, the petitioner acquired the property by way of a settlement deed, dated 25.11.2019, When the petitioner has gone before the Sub Registrar to register the sale deed, the Registrar refused to register the document on the ground that the property is the property of Sri Renganatha Aranganathar Swami Temple, Sri Rangam and that therefore, the document can be registered only after getting No Objection Certificate from the second respondent. This order is put to challenge in the present Writ Petition.

5.The Honourable Division Bench of this Court in the case of *Sudha Ravi Kumar and another vs The Special Commissioner and Commissioner, HR & CE Department, Chennai and others*, reported in 2017 (3) CTC 135, directed the authorities to follow a procedure in the following lines:

“25.In view of the above discussions, all the writ petitions are allowed and the impugned orders are set aside with the following directions:



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(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 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.”

6. Mere claim by the HR & CE Department is not sufficient for the Sub Registrar to refuse the document. Unless the title of temple is acknowledged by a Civil Court or the temple produce sufficient documents to prove its lawful title, the Register cannot refuse to register the document presented by individual. Section 22(A) of Registration Act prescribes only when the Registering



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Authority has reason to believe that the property belongs to any institution, which comes under the purview of HR & CE Act. When the previous document was registered without any objection, it is improper to refuse to register the document on the ground of objection raised by H.R. & C.E. Department.”

6.It is therefore seen that an obligation is placed on the first respondent/Sub Registrar to conduct an enquiry. The earlier documents presented by the petitioner had, in fact, been entertained for registration and had registered by the first respondent. A direction is given to the first respondent to follow the procedure as stated in the aforementioned directions given by the Division Bench and followed by the learned Single Judge. A notice must be issued to the petitioner and to the second respondent and necessary enquiry must be conducted in accordance with Section 22(A) of Registration Act, 1908. An obligation is placed on the first respondent to commence and complete the enquiry within a period of sixteen weeks from the date of receipt of a copy of this order.

7.The writ Petition stands disposed of. No costs.

Index :Yes / No
Internet :Yes
NCC : Yes/No
cmr

24.03.2023



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The Sub Registrar,
Sankarankovil Sub Registrar Office,
Tenkasi District.



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C.V.KARTHIKEYAN, J.

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