



W.P(MD)No.3981 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3981 of 2023

Murugesan

... Petitioner

Vs.

1.The Sub-Registrar,
Kannivadi,
Dindigul District.

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jafar Syrang Street,
Vallal Seethakathi Nagar,
Chennai-1.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned refusal check slip issued by the first respondent in Refusal Number:RFL/Kannivadi/1/2023, dated 11.01.2023 and quash the same as illegal and consequently, direct the first respondent to register the decree made in O.S.No.338 of 2012 passed by the Additional District Munsif Court, Dindigul, dated 25.11.2022.



W.P(MD)No.3981 of 2023

For Petitioner : Mr.D.Venkatesh

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the first respondent. Notice to the second respondent is dispensed with.

2. The petitioner presented the petition mentioned document. It was not entertained. Instead, the impugned refusal check slip was issued. The reasons set out in the impugned refusal check slip is that the property in question has been mentioned as belonging to 'Kannivadi Mosque'. While considering the registration of the properties in which Hindu Religious Institutions may claim right, the Hon'ble Division Bench in the decision reported in **2017 (3) CTC 135 (Sudha Ravi Kumar v. The Special Commissioner & Commissioner, HR & CE Department)** had issued the following directions:-

“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.



W.P(MD)No.3981 of 2023

(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.”

3. The very same approach can be adopted in this case. The petitioner is permitted to re-present the document in question. The first respondent shall follow the procedure set out in the aforementioned Division Bench decision.



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W.P(MD)No.3981 of 2023

G.R.SWAMINATHAN, J.

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4. The Writ Petition is disposed of. No costs.

27.02.2023

Index : Yes / No

Internet : Yes/ No

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NOTE:Issue Order Copy on 28.03.2023

To

The Sub-Registrar,
Kannivadi,
Dindigul District.

W.P(MD)No.3981 of 2023

27.02.2023