



W.P.(MD)No.9515 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2023

C O R A M

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.9515 of 2020

and

W.M.P.(MD)No.8580 of 2020

V.Sreesudhahar

... Petitioner

-VS-

1.The Sub-Registrar,
Thuckalay Sub Registrar Office, Thuckalay,
Kanyakumari District.

2.The Joint Commissioner,
H.R. & C.E. Department, Sucindrum,
Kanyakumari District.

... Respondents

(R2 is impleaded vide order dated 16.09.2020,
in W.M.P.(MD)No.9984/2020)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Refusal No.RFL/THUCKALAY/5/2020, dated 11.02.2020, passed by the respondent, quash the same and consequently, direct the respondent receive the settlement deed and register the same in favour of the petitioner's wife.



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For Petitioner : Mr.G.Cenil
For Respondents : Mr.A.K.Manikkam
Special Government Pleader

ORDER

This Writ Petition was filed challenging the impugned refusal check slip issued by the first respondent, dated 11.02.2020.

2. Heard the learned counsel appearing on behalf of the petitioner and the learned Special Government Pleader appearing on behalf of the respondents.

3. The petitioner claims to be the absolute owner of the subject property by virtue of a registered sale deed, dated 11.09.2008. The petitioner wanted to settle this property in favour of his wife. Accordingly, the settlement deed, dated 11.02.2020, was executed and it was presented for registration before the first respondent. The first respondent refused to entertain the document on the ground that the objections have been given by the H.R. & C.E. Department and directed the petitioner to get No Objection Certificate. Aggrieved by the same, the present Writ Petition has been filed before this Court.



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4. In the considered view of this Court, the issue involved in this case is squarely covered by the Division Bench judgment of this Court in **Sudha Ravi Kumar and others vs. The Special Commissioner and Commissioner of Hindu Religious and Charitable Endowments 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.



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(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."



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5. The first respondent is directed to follow the procedure that was provided by the Division Bench of this Court and which has been extracted supra, after affording opportunity to the petitioner and the second respondent. A decision shall be taken by the first respondent in this regard within a period of six weeks from the date of receipt of a copy of this order.

6. This Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
smn2

13.12.2023

To

1. The Sub-Registrar,
Thuckalay Sub Registrar Office, Thuckalay,
Kanyakumari District.

2. The Joint Commissioner,
H.R. & C.E. Department, Sucindrum,
Kanyakumari District.



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N.ANAND VENKATESH, J.

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