



WEB COPY



W.P.No.13

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.05.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.No.13916 of 2024

Mr.C.Purushothaman

... Petitioner

Vs.

1. The Inspector General of Registration,
Santhome High Road,
Chennai – 600 028.

2. The Sub-Registrar,
Triplicane, Chennai – 600 014.

3. The Tamil Nadu Wakf Board,
Rep. By its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records pertain to the impugned order bearing Refusal No. RFL/ Triplicane/ 32/ 2024 dated 29.04.2024 on the file of the second respondent and quash the same as arbitrary, illegal and



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unconstitutional and consequently direct the 2nd respondent to register the release deed dated 29.04.2024 executed by petitioner brother C.Elavarasu in favour of the petitioner pertaining to the B Schedule Property herein without insisting for a NOC or any other document from the 3rd respondent herein.

For Petitioner : Mr.Abhinav Parthasarathy
For Respondents : Mr.B.Vijay,
Additional Government Pleader

ORDER

Heard both sides.

2. The petitioner presented the petition mentioned release deed for registration. Citing the protest petition and the objection received from the third respondent, the second respondent declined to register the document. The impugned refusal check slip was issued to that effect. Challenging the same, the present writ petition came to be filed.

3. The Hon'ble Division Bench of the Madras High Court in the decision reported in **2017 (3) CTC 135 (Sudha Ravi Kumar & Others Vs. The Special**



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Commissioner and Commissioner, Hindu Religious and Charitable

Endowments Department and Others) had laid down the procedure to be

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followed in such cases. The direction issued by the Hon'ble Division Bench reads as under:

“(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



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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.



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

4. In this case, the impugned refusal check slip was straight away issued without conducting any enquiry as contemplated by the Hon’ble Division Bench.

5. In view of the same, the impugned refusal check slip is set aside and the matter is remitted back to the file of the second respondent. The second respondent will issue notice to the petitioner as well as the third respondent and hold an enquiry. The second respondent will take note of the order dated 10.04.2024 made in W.P.No.1876 of 2024 while passing final order in the enquiry. If the outcome of the enquiry is in favour of the petitioner, the document in question can be represented by the petitioner and it shall be registered subject to the fulfilment of other usual formalities.



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6. The writ petition is disposed of accordingly. No costs.

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No



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G.R.SWAMINATHAN, J.

skr/kst

To

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