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W.P. No.22416 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P. No.22416 of 2024

Kandasamy

... Petitioner

Vs

1.The Sub Registrar - Nallur
Kangeyam Road
Nallur
Tiruppur District - 641 606

2.The Commissioner
Hindu Religious & Charitable Endowment Department
Uttamar Gandhi Salai
Nungambakkam, Chennai - 600 034

3.The Joint Commissioner
Hindu Religious & Charitable Endowment Department
Room No.12, New Commercial Complex
1st Floor, Cotton Market Complex
Palladam Road, Tiruppur - 641 604

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the 1st respondent in his order dated 21.06.2024 in refusal No.RFL/Nallur/Tiruppur/39/2024 and quash the order dated 21.06.2024 and



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consequently direct the 1st respondent to register the settlement deed dated 21.06.2024 executed by the petitioner in favour of his son Goutham in respect of the lands measuring 3187.5 sq.ft. in Plot No.7 and 3200 sq.ft. in Plot No.8 comprising in S. No.273/1A1, Nallur Village, Tiruppur Taluk, Tiruppur District.

For Petitioner : Mr.M.Sivavarthanan

For Respondent : Mr.B.Vijay
Addl. Govt. Pleader for R1
Mr.K.Karthikeyan,
Govt. Advt. (HR&CE) for R2 and R3

ORDER

Aggrieved by the refusal check slip issued by the first respondent refusing to register the settlement deed presented by the petitioner for registration, he is before this court.

2. According to the petitioner, he is the absolute owner of the lands measuring 3187.5 sq.ft. in Plot No.7 and 3200 sq.ft. in Plot No.8 comprising in S. No.273/1A1, Nallur Village, Tiruppur Taluk, Tiruppur District. The petitioner said to have purchased the above property under two sale deeds dated 05.06.2008 and 27.08.2008. It is also stated that the property was originally



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classified as minor inam lands and after introduction of Tamil Nadu Minor Inams (Abolition and Coonversion into Ryotwari) Act, 1963, patta was issued in the name of petitioner's predecessor by order passed by Minor Inams Tribunal, Coimbatore in C.M.A. No.3238 of 1969 dated 08.11.1971. The petitioner has executed a settlement deed in favour of his son Goutham on 21.06.2024 and the petitioner has presented the same for registration before the first respondent. However, the first respondent, on the basis of the communication received from the third respondent, claiming right over the subject matter of settlement, issued the impugned check slip even without conducting any enquiry and aggrieved by the same, the petitioner has filed this writ petition.

3. The learned counsel appearing for the petitioner, by relying on the order passed by the Minor Inams Tribunal in C.M.A. No.323 of 1969 submitted that the right of petitioner's predecessor 's interest was upheld in the settlement proceedings and therefore, the third respondent has no right to claim right over the property.



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4. A Division Bench of this court in ***Sudha Ravi Kumar and another vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department, Chennai and others*** reported in (2017) 3 CTC 135, while considering the similar issue, observed as follows:

"25. But this observation of ours shall not be construed that it is our conclusion that ryotwari patta issued to the ryot concerned is the final adjudication relating to the title for the property. We wish to clarify that the final adjudication regarding the title to the property can be had only before a Civil Court. We only say that at the time of registration of the deed, if any objection is made by the religious institution under Section 22~A of the Act, the registering authority shall issue notice afford opportunity to the parties, apply his mind and only from the materials available before him, if he is satisfied that the land belongs to the religious institution or given or endowed to the religious institution, then, he shall refuse to register such deed.

26. 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.



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(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."*



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5. In view of the law laid down by the Division Bench of this court in the above mentioned case law, the impugned refusal check slip issued by the first respondent without conducting any enquiry, is liable to be set aside and accordingly, the writ petition stands allowed. The first respondent is directed to conduct an enquiry as held by the Division Bench of this court in the above mentioned case law by issuing notice to the petitioner and the third respondent and pass final orders within a period of 12 weeks from the date of receipt of a copy of this order. However, there is no order as to costs.

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Index : Yes / No
Neutral Citation : Yes / No
Asr

To

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2.The Commissioner
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4.The Government Pleader
High Court, Madras

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