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W.P.No.28039 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

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THE HONOURABLE MR. JUSTICE S. SOUNTHAR

W.P No.28039 of 2024

Manavalan

...Petitioner

Vs.

1. The Joint Sub Registrar - I,
Chennai Central,
182, Pycrots Road, Express Estate,
Royapetah, Chennai - 600 014.
2. The Joint Commissioner,
Hindu Religious & Charitable Endowments
Department, Chennai - II,
Mylapore, Chennai - 600 004.
3. The Assistant Commissioner,
Hindu Religious & Charitable Endowments
Department, Chennai - II,
Mylapore, Chennai - 600 004.
4. The Executive Officer,
Arulmighu Thiruvallur Thirukoil,
Mylapore, Chennai - 600 004.
5. The Tahsildar,
Mylapore, Chennai - 600 028.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records from the first respondent in RFL/Chennai Central Joint - I/74/2024 dated 02.09.2024



and quash the same and direct the first respondent to register and assign regular number in TP/192970356/2024.

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For Petitioner : Ms. S. Subashree
For R1 & R5 : Mr.M.Shahjahan
Special Government Pleader
For R2 to R4 : Mr.N.R.R.Arun Natarajan
Special Government Pleader (HR & CE)

ORDER

Aggrieved by the impugned Refusal Check Slip bearing Refusal No.RFL/Chennai Central Joint - I/74/2024, dated 02.09.2024 issued by the first respondent refusing to register the memorandum of deposit of title deeds on the ground that the subject property belonged to Arulmighu Thriuvalluvar Thirukoil, Mylapore, the petitioner has come up by way of this writ petition.

2. It is brought to my notice that for the very same property the petitioner presented a memorandum of deposit of title deeds on 12.06.2024 for registration before the first respondent and the same was refused by the first respondent in his refusal check slip No.RFL/Chennai Central Joint - I/74/2024, dated 02.09.2024 on the ground that the property belongs to temple. Aggrieved by the said order, the petitioner preferred a writ petition in W.P. No. 18915 of 2024 and the same was dismissed as withdrawn without any liberty to file fresh writ petition. Subsequently, the petitioner filed another



writ petition in W.P. No. 24974 of 2024 challenging the very same impugned order. When the second writ petition in W.P. No. 24974 of 2024 was taken up for hearing, it was brought to the notice of this Court that eviction proceedings were already initiated against the petitioner under section 78 of HR & CE Act in M.P. No. 201 of 2021, on the file of the second respondent. After, recording the same, this Court dismissed the writ petition by holding that the petitioner is not entitled to challenge the refusal slip without establishing his right in the manner known to law. While dismissing said writ petition, this Court also observed that filing second writ petition after withdrawing earlier writ petition, without liberty, would amount to abuse of process of Court. After dismissal of the second writ petition, the petitioner again prepared very same memorandum of deposit of title deeds by changing the date of execution as 02.09.2024 and presented the same for registration before the first respondent. The document presented by the petitioner for the second time was rejected by the first respondent once again on the ground that the property belonged to Arulmighu Thriuvalluvar Thirukoil. Challenging the same present writ petition is filed.

3. Earlier when the memorandum of deposit of title deeds was refused for registration by the first respondent the petitioner filed WP. No. 18915 of



2024 and got it withdrawn without any liberty. Subsequently as against the very same order of refusal, the second writ petition was filed and it was also dismissed by this Court with an observation that the petitioner is not entitled to challenge the refusal slip without establishing his right in the manner known to law.. This Court at the time of dismissing the earlier Writ petition filed by the petitioner observed as follows:-

"5. Mr.S.Ravichandran, learned Additional Government Pleader, who takes notice for the respondents 2 to 4, on instructions submitted that in respect of the very same land Section 78 proceedings were already initiated against the petitioner for his eviction in MP.No.201 of 2021 on the file of the second respondent. When the second respondent already initiated eviction proceedings against the petitioner in respect of above mentioned property, treating him as encumber, it is not open to the petitioner to encumber the property without establishing his right in the manner known to law before the Civil Forum. It is also seen from the typed set of papers challenging the very same impugned order, the petitioner earlier filed a writ petition in W.P.No.18915 of 2024 and the same was dismissed as withdrawn by the order dated 26.07.2024.

6. A perusal of the order passed by this Court in the Writ petition in W.P.No.18915 of 2024 would indicate that the earlier Writ petition filed by the petitioner challenging the very same impugned order was dismissed as withdrawn without liberty to file fresh writ petition. In these circumstances, the present writ petition is nothing but an abuse of process of law and hence the same is dismissed. "

4. Therefore, in order to create cause of action for fresh writ petition, the petitioner prepared very same memorandum of deposit of title deed in



respect of very same property and presented it for registration before first respondent. Again it was refused on the ground property belonged to fourth respondent temple. Based on the new cause of action created by petitioner, the present writ petition is filed. The present writ petition filed by petitioner is nothing but a re-litigation. After dismissed of earlier writ petition, the petitioner prepared new memorandum of deposit of title deeds just to create new cause of action. The same is nothing but an abuse of process of Court.

5. Therefore, this writ petition is dismissed with costs. The petitioner shall pay a cost of Rs.10,000/- to the fourth respondent temple within a period of two weeks from the date of receipt of a copy of this order. If the petitioner fails to pay the costs within the stipulated time, the fourth respondent shall invoke the provision of Revenue Recovery Act against the petitioner to recover the cost amount from the petitioner. In such event, it is also open to the fourth respondent to move competent authority to recover the cost amount by resorting to the provisions contained in Section 79(C) of HR & CE Act.

25.09.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
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To

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S. SOUNTHAR, J.

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