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W.P. No. 28179 of 2024.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2024

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P. No.28179 of 2024

M.Saravanan

..Petitioner

Vs.

1. The Inspector General of Registration
No.100, Santhome High Road,
Mylapore,
Chennai-600 028.

2.The Sub-Registrar
Sub-Registrar Office
Nallur, Tiruppur District

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned Refusal Check Slip issued by the 2nd respondent in RFL/Nallur/46/2024 dated 22.07.2024 and quash the same and consequently direct the 2nd respondent to register the receipt dated 22.07.2024 presented by the petitioner for registration.

For Petitioner :Mr.P.Navaneethakrishnan
For Respondents 1 & 2 : Mr.T.Chezhiyan
Additional Government Pleader



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ORDER

By consent of both the learned counsel appearing for the petitioner as well as respondents, this writ petition is disposed of at the admission stage itself.

2. Aggrieved by the impugned refusal check slip issued by the 2nd respondent refusing to register the discharge receipt presented by the petitioner for registration, he has come before this Court by way of this writ petition.

3. According to the petitioner, the subject property in Survey No.234/1 of Nallur village measuring an extent of 3495 Sq.feet was purchased by him under sale deed dated 22.12.2021 registered on the file of 2nd respondent. The revenue patta was also issued in his favour. Thereafter, the petitioner mortgaged the subject property with M/s.TATA Capital Housing Finance Limited and obtained a loan of Rs.35,00,000/-(rupees thirty five lakhs only).



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The memorandum of deposit of title deed was also registered with 2nd respondent as Document No.2045 of 2023. Now, the petitioner paid the entire mortgage debt and the discharge receipt was also issued by the mortgagee in favour of petitioner on 22.07.2024 and the same was presented for registration before the 2nd respondent. The registration of the same was refused by the 2nd respondent on the ground that it received an objection letter. The registration of the said receipt was refused by the 2nd respondent without assigning any specific reasons. Aggrieved by the same, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that in the impugned order, the 2nd respondent indicated that the property belongs to “Government/ HR & CR/ Wakf Board/Boomidhan/Panchami Lands” and therefore, the registration was refused. Without giving any specific reason, the 2nd respondent issued refusal check slip as if the property belongs to institutions mentioned therein. The said ambiguous reason mentioned in the refusal slip cannot stand in the eye of law.

5. The learned Additional Government Pleader, who is taking notice for



the respondents 1 and 2, based on the written instructions, submitted that the 2nd respondent received an objection letter from the Executive Officer of Arulmigu Manthiragiri Velayuthaswamy Temple dated 12.06.2023 as if the property in Survey No. 234/1 belongs to temple. Therefore, the impugned order was passed by the 2nd respondent.

6. As per the narration of facts in the affidavit filed in support of this petition, the petitioner mortgaged the subject property and obtained loan. Now, the petitioner discharged the mortgage debt and the discharge receipt issued by the mortgagee is presented for registration. If the discharge receipt is registered, it will clear the encumbrance of the property and the same is beneficial to the owner of the property. In any event, if objection letter is received by the registering authority from the temple, the 2nd respondent should have conducted an enquiry as directed by the Division Bench of this Court in ***Sudha Ravi Kumaar Vs The Special Commissioner, HR & CE Department, Chennai-34*** reported in ***2017 SCC OnLine Mad 19191***.

7. In Sudha Ravi Kumaar case, the Division Bench of this Court issued



certain guidelines as to how objections from religious institutions shall be dealt with by registering authority. The relevant observation reads as follows:-

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.

(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



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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."

8. In the case on hand, the 2nd respondent has not conducted any enquiry by giving sufficient opportunity to the petitioner and the temple. The impugned order has been passed without giving any opportunity to the petitioner. Therefore, the impugned order is set aside and the matter is remitted back to the file of 2nd respondent with direction to conduct enquiry as per the directions issued in ***Sudha Ravi Kumar case*** by giving sufficient opportunity to the petitioner and the temple in question. The enquiry shall be completed and final orders shall be passed on its' own merits within a period of eight weeks from the date of receipt of copy of this order.



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9. With the above observations, this writ petition stands allowed. No costs.

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Index : Yes/No

Neutral Citation : Yes/No

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To

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2. The Sub-Registrar
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S.SOUNTHAR, J.

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