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W.P. No.31453 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.31453 of 2023 and
W.M.P. No.31067 of 2023

K.R.Saminathan

... Petitioner

Vs.

1. The Joint Commissioner
Hindu Religious and Charitable
Endowment Department
Tiruppur - 638 004
Tiruppur District

2. The Sub Registrar
Sub Registrar Office
Vellakoil, Tiruppur District

3. A/m. Sellandiamman Thirukoil
Rep. by its Thakkar, A/m Veerakumarasamy Thirukoil
Vellakoil - 638 111
Thiruppur District

4. The Branch Manager
Union Bank of India (E-Corporation Bank)
Coimbatore main Branch, Coimbatore

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned orders i) dated 18.10.2021 made in Na.Ka.No.8010/2021/A4 issued by the 1st respondent, ii) dated 08.12.2022 passed by the 3rd respondent and iii) Refusal Check Slip dated 16.02.2023 made in RFL/Vellakovil/8/2023 passed by the 2nd respondent, quash the same and consequently direct the 2nd respondent to register the mortgage deed dated 16.02.2023 executed by the petitioner, by forbearing the respondents from interfering with the petitioner's right to property measuring 1.24 acres bearing old S.F.No.572/A corresponding to R.S.No.572/2A1, 572/2A2 and 572/2E1, Vellakovil Village, Kangeyam Taluk, Tiruppur District.

For Petitioner : Mr.N.Manoharan
For R2 : Mr.Yogesh Kannadasan
Special Government Pleader
For R1 and R3 : Mr.KKarthikeyan
Government Advocate (HR & CE)
For R4 : Mr.M.Muthuperiasamy

ORDER

This Writ Petition is filed seeking to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned orders i) dated 18.10.2021 made in Na.Ka.No.8010/2021/A4 issued by the 1st respondent, ii) dated 08.12.2022 passed by the 3rd respondent and iii) Refusal Check



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Slip dated 16.02.2023 made in RFL/Vellakovil/8/2023 passed by the 2nd

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respondent, quash the same and consequently direct the 2nd respondent to register the mortgage deed dated 16.02.2023, executed by the petitioner, by forbearing the respondents from interfering with the petitioner's right to property measuring 1.24 acres bearing old S.F.No.572/A corresponding to R.S.No.572/2A1, 572/2A2 and 572/2E1, Vellakovil Village, Kangeyam Taluk, Tiruppur District.

2. The case of the petitioner is that in order to raise a loan, the petitioner had approached one C.Kumar, who after verifying the marketable title, had agreed to give the loan. Thereafter, the petitioner executed a mortgage deed dated 16.02.2023 in favour of the said C.Kumar and presented the same for registration before the 2nd respondent/Sub Registrar. But the 2nd respondent, refused to register the mortgage deed and issued the 3rd impugned refusal check slip dated 16.02.2023 on the ground that the HR & CE issued a letter stating the subject matter of property belongs to the 3rd respondent temple. Thereafter, the petitioner



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obtained the copies of the impugned orders issued by the respondents 1

and 3 dated 18.10.2021 and 08.12.2022 requesting the 2nd respondent not to entertain any document for registration in respect of old S.F.No.572/A.

The contention of the petitioner is that the 1st respondent has misquoted G.O.Ms.No.150, G.O.Ms.No.123 and the proceedings of the Inspector General of Registration for refusing to register the pending document P8/2022. Hence, the present writ petition is filed.

3. The learned counsel for the petitioner submitted that though the land was originally a Temple land, subsequently, during Inam abolition, the Tribunal recognized the petitioner's possession and based on which, they fixed rent and based on the fixation of rent, they also paid rent. Therefore, his possession has been recognized. After the petitioner presented the document for registration, the 2nd respondent/Sub Registrar, passed the impugned refusal check slip without giving notice and without giving opportunity of hearing to the petitioner. Even after passing the order, the same was not communicated to the petitioner and that the petitioner is



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not aware of the same. Therefore, the impugned order has to be quashed.

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4. The learned Special Government Pleader appearing for the 2nd respondent/Sub Registrar submitted that already opportunity was given to the petitioner and since the 1st respondent raised objection, they passed the order.

5. The learned counsel for the 4th respondent submitted that the 4th respondent has nothing to do with this Writ Petition and he has no right or interest whatsoever and he is an unnecessary party.

6. Heard and perused the materials available on record.

7. The main contention of the petitioner is that notice was not given to him and he was not heard by the 2nd respondent before passing the impugned order and therefore, it is a violation of principles of natural justice. Therefore, the same is liable to be set aside.

8. Considering the fact that before passing the impugned order, the petitioner was not given opportunity, the impugned refusal check slip dated 16.02.2023 passed by the 2nd respondent is set aside. The matter is



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remitted back to the 2nd respondent.

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9. The 2nd respondent is directed to give notice to the petitioner, 1st respondent and 3rd respondent and also to the interested parties/rival claimants/objectors if any, as the case may be and conduct enquiry in the manner known to law and pass orders on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

10. With the above directions, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

22.02.2024

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Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



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To

1. The Joint Commissioner
Hindu Religious and Charitable
Endowment Department
Tiruppur - 638 004
Tiruppur District

2. The Sub Registrar
Sub Registrar Office
Vellakoil, Tiruppur District



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P.VELMURUGAN. J.

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