



W.P(MD)No.17149 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17149 of 2024

and

W.M.P.(MD)No.14787 of 2024

Esakkiyah Pandian

... Petitioner

Vs.

1.The Sub Registrar,
Thisayanvilai,
Tirunelveli District.

2.The Assistant Executive Engineer,
Agricultural Engineering Department,
Soil Conservation Scheme,
(Man Vala Pathukappu Thittam)
Nagercoil,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned refusal check slip issued by the 1st respondent in Refusal Number. RFL/Thisayanvilai/1/2021 dated 17.02.2021 and the consequential impugned order in Na.Ka.No. 68/2024 dated 15.04.2024 and quash the same as illegal, consesquently direct the 1st respondent to register the sale deed dated 17.02.2021 presented by the petitioner for registration after conducting an enquiry U/s. 22-A of the Registration Act within a time frame.



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WEB COPY For Petitioner : Mr.D.Venkatesh

For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader for R1 & R2

ORDER

Heard both sides.

2. The petitioner wants to sell the petition mentioned property in favour of his son. When the sale deed was presented, registration was refused. The reason for doing so was that as per the records, one Savarimuthu had gifted the petition mentioned property in favour of the second respondent. In other words, according to the first respondent, Section 22A of the Registration Act will come into play. If that be so, enquiry ought to have been conducted. The Hon'ble Division Bench of this Court in the decision reported in 2017 (3) CTC 135 (Sudha Ravi Kumar and Ors. Vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department and Ors, had issued the following directions:-

“25.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



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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 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.”

3. The very same approach has to be adopted in cases where it appears that the land in question is a government property. The petitioner is permitted to re-present the document in question. The first respondent shall follow the procedure set out in the aforementioned Division Bench decision. Notice will be issued to the second respondent.



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4. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

26.07.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To

1.The Sub Registrar,
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Tirunelveli District.

2.The Assistant Executive Engineer,
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G.R.SWAMINATHAN, J.

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