



W.P.(MD)No.21396 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 18.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.21396 of 2024
and WMP(MD) No.18108 of 2024

Karpagavalli

... Petitioner

Vs

1. The Sub Registrar,
Kadhakinaru, Madurai District.

2. The Executive Officer,
Arulmigu Kallazhagar Temple,
Alagarkoil, Madurai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the Impugned Refusal Check Slip in RFL/Kathakinaru/7/2024 dated 30.08.2024 on the file of the 1st respondent and quash the same and further directing the respondent to receive and register the Power of Attorney dated 30.08.2024 in favour of the petitioners brother Arunkumar.



W.P.(MD)No.21396 of 2024

For Petitioner : Mr.S.Selva Aditya
for Mr.G.Prabhu Rajadurai
For respondents : Mr.P.Subbaraj (R1)
Special Government Pleader
Mr.S.Manohar(R2)
Standing Counsel

ORDER

This Writ Petition has been filed challenging the impugned refusal check slip in RFL/Kathakinaru/7/2024, dated 30.08.2024 on the file of the 1st respondent and directing the first respondent to register the Power of Attorney, dated 30.08.2024 in favour of the petitioner's brother Arunkumar.

2.Heard Mr.S.Selva Aditya, learned counsel appearing for the petitioner, Mr.P.Subbaraj, learned Special Government Pleader appearing for R1 and Mr.S.Manohar, learned Standing counsel appearing for R2.

3. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



W.P.(MD)No.21396 of 2024

4.It is case of the writ petitioner that the property originally owned by one Gandhimathi. She has executed a registered gift deed in favour of her son one Devendran. The said Devendran through his power of attorney sold the property in favour of petitioner's mother on 21.12.2011. Thereafter, the petitioner's mother executed a settlement deed in his favour on 30.03.2012. Since the petitioner settled in United Kingdom, he has executed power of attorney in favour of his brother. When the same was presented for registration, the same was refused to register citing that the subject property belongs to the second respondent/Temple.

5.The learned standing counsel appearing for the second respondent submitted that originally patta for the said property stood in the name of the 2nd respondent/Temple and it has been changed in favour of the petitioner's vendor. In this regard, proceedings before the District Revenue Officer is pending.

6.From both sides arguments, it appears that the 2nd respondent/ temple claiming title, based on the settlement deed executed by one Paramasamy Ambalam in favour of Temple on 09.07.1940 Whereas, it is the specific contention of the learned counsel for the petitioner that the settlement deed was of the year 1940, not relating to S.No.62/5. Though various properties have been



W.P.(MD)No.21396 of 2024

gifted, the settor has consciously not gifted the subject property in S.No.62/5 in favour of the temple.

7.I also perused the copy of settlement deed, dated 09.07.1940 , which was produced before this Court. Though various survey numbers had been gifted in favour of the Temple, the subject property in S.No.62/5 has never been settled. As long as title relating to S.No.62/5 is not in favour of the 2nd respondent/temple, merely based on some patta proceedings pending before the District Revenue Officials, the same cannot be a ground to the 1st respondent to reject the registration of the petitioner's document. Hence, the impugned refusal check-slip is liable to be quashed.

8.Accordingly, this writ petition stands allowed and the impugned refusal check slip in RFL/Kathakinaru/7/2024 dated 30.08.2024 is hereby quashed and the first respondent is directed to register the Power of Attorney, dated 30.08.2024 within a period of one week from the date of receipt of copy of this order.



W.P.(MD)No.21396 of 2024

9.It is well open to the second respondent/Temple to establish their title in the manner known to law. If they able to establish their title, they can very well retrieve the property under HR & CE Act, 1951. No costs. Consequently, connected miscellaneous petition is closed.

18.09.2024

NCC : Yes/No
Index : Yes/No
PNM

To
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2. The Executive Officer,
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W.P.(MD)No.21396 of 2024

N.SATHISH KUMAR, J.

PNM

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