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W.P.(MD)No.24773 of 2022
& W.P.(MD)No.121 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.09.2024

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.24773 of 2022
and
W.P.(MD)No.121 of 2023

W.P.(MD)No.24773 of 2022:-

Abdul Bareeth

... Petitioner

Vs.

1.The District Registrar,
Ramanathapuram District,
Ramanathapuram.

2.The Sub Registrar,
Sub Registrar Office,
Bogalur,
Ramanathapuram.

3.Bala Krishnan

4.Salai Muthukumar Chettiyar Education Trust,
Rep. by its Trustee,
G.Seenivasagan.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned Refusal Check Slip in Refusal Number RFL/Bogalur/78/2022 dated 30.09.2022 passed by the 2nd Respondent herein and quash the same as illegal



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and further direct the 2nd Respondent herein to re-enquire the issue and register and release the document presented by petitioner dated 30.09.2022, within a time stipulated by this Court in the light of the judgment made by this Court in Sudha Ravikumar -Vs- The Special Commissioner and Commissioner, HR and CE Department reported in 2017 (3) CTC 135.

For Petitioner : Mr.V.Meenakshisundaram

For Respondents : Mr.C.Satheesh,
Government Advocate for R1 & R2.
Mr.S.Ramesh for R3
Mr.D.Senthil for R4

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Abdul Bareeth

... Petitioner

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1.The District Registrar,
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4.Salai Muthukumar Chettiyar Education Trust,
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... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned Refusal Check Slip in Refusal Number RFL/Bogalur/79/2022 dated 03.10.2022 passed by the 2nd Respondent herein and quash the same as illegal and further direct the 2nd Respondent herein to re-enquire the issue and register and release the document presented by petitioner dated 03.10.2022, within a time stipulated by this Court in the light of the judgment made by this Court in Sudha Ravikumar -Vs- The Special Commissioner and Commissioner, HR and CE Department reported in 2017 (3) CTC 135.

For Petitioner : Mr.V.Meenakshisundaram

For Respondents : Mr.C.Satheesh,
Government Advocate for R1 & R2.
Mr.S.Ramesh for R3
Mr.D.Senthil for R4

COMMON ORDER

Challenge has been made to the refusal slips issued by the second respondent in RFL/Bogalur/78/2022 dated 30.09.2022 and RFL/Bogalur/79/2022 dated 03.10.2022, refusing to register the sale deeds dated 30.09.2022 and 03.10.2022 executed in favour of the petitioner.



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2.It is the case of the petitioner is that the subject property was the subject matter of the suit in O.S.No.238 of 2004 on the file of the District Munsif Court, Paramakudi. The suit was decreed and the petitioner's vendor was allotted 1/4th share. During the final decree proceedings, the petitioner's vendor has entered into compromise and final decree has been passed based on the said compromise. He wants to sell some portion of his share to the petitioner by way two sale deeds dated 30.09.2022 and 03.10.2022. When the said documents were presented for registration, the same was refused on the ground that one of the co-owner was already party in the suit, who dealt the subject property in the year 2011 itself. Unless and until, the those documents are set aside, the registration cannot be done. Hence, the present writ petitions have been filed.

3.The learned counsel for the third respondent submitted that while selling the property in the year 2011, the petitioner's vendor stood as attesting witness and after 12 years, he wants to execute sale deeds in favour of the petitioner. It is also stand of the third respondent in the counter that he will work out his right of equity with the other properties allotted to the petitioner. He pressed for dismissal of the writ petition.



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4.The learned counsel for the fourth respondent submitted that since patta stood in the name of the third respondent, they purchased the property as a bonafide purchaser.

5.Heard the learned counsel appearing on either side and perused the materials placed on record.

6.The fact remains that a specific portion, which was the subject property, was allotted to the petitioner's vendor in the final decree proceedings based on the compromise. Now the documents sought to be registered has been returned by citing that the third respondent had already created encumbrance in the year 2011. The issue regarding allotment of the property had reached its finality and whether the third respondent has right to convey the property allotted to the vendor of the petitioner is to be a question to be decided. Of course, it cannot be decided in writ proceedings and that the same has to be decided only before the Civil Court.

7.Final decree has been passed and there is no dispute regarding allotment. The petitioner's vendor who is the allottee, has executed the documents. This Court is of the view that merely some earlier document is registered, the same cannot be a ground to refuse registration. The priority



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rights of the parties will be decided only based on registered document. At

least, to establish the rights of the parties, the documents have to be registered.

Whether the document of the year 2011 conveyed the absolute title or the later document will convey the absolute title, can be seen only when the documents are registered.

8.In such of the matter, the impugned refusal check slips are quashed and the registering authority is directed to register the documents within a period of one week from the date receipt of a copy of this order. It is open to the parties to establish their respective rights based on documents before the Civil Court.

9.The writ petitions are allowed accordingly. No costs.

10.09.2024

NCC :Yes/no
Index :Yes/no
Internet :Yes/no
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To:

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- 2.The Sub Registrar,
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N.SATHISH KUMAR, J.

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