



W.P (MD).No.25260 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.11.2024

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P (MD).No.25260 of 2024

and

W.M.P(MD)No.21460 of 2024

E.Rajasekaran

... Petitioner

Vs.

1.The District Registrar,
Virudhunagar District,
Virudhunagar.

2.The Sub-Registrar,
Thiruthangal,
Sivakasi Taluk,
Virudhunagar District.

3.The Executive Officer,
Arulmighu Vishwanatha Swamy Thirukovil,
Sivakasi,
Virudhunagar District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the impugned refusal check slip issued by the second respondent in Refusal Number RFL/Thiruthangal/47/2024 dated 14.06.2024 and quash the same as illegal and consequently directing the second respondent to register the sale deed document executed in respect of the property in Plot No.2 (western side) situates in Survey No.1478, Keezhthiruthangal Village, Thiruthangal Sub-



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division, Virudhunagar Revenue District, Sivakasi Taluk, Virudhunagar District.

For Petitioner : Mr.B.Vinothkumar
For R1 & R2 : Mr.M.Sarangan
Additional Government Pleader
For F3 : Mr.Mahendran

ORDER

This writ petition has been filed challenging the refusal check slip issued by the second respondent, dated 14.06.2024 thereby, refused to register the sale deed, which was presented for registration in respect of the property comprised in Survey No.1478, situated at Plot No.2, Keezhathiruthangal Village, Sivakasi Taluk, Virudhunagar District.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The petitioner had purchased the property comprised in Survey No. 1478, Keezhathiruthangal Village, Thiruthangal Sub-Division, Sivakasi Taluk, Virudhunagar District from one Kasi by the sale deed, dated 14.06.2024 and presented for registration. The second respondent refused to register the same



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on the ground that the third respondent raised an objection, dated 23.02.2022, for registration of any document in respect of the subject property comprised in Survey No.1478 as it belongs to the third respondent's Temple. Therefore, the second respondent directed the petitioner to obtain No Objection Certificate from the third respondent.

4. The learned counsel for the petitioner would submit that in respect of the very same property, already the third respondent filed a suit in O.S.No. 166 of 2003, on the file of the District Munsif Court, Sivakasi for bare injunction and the same was dismissed. Aggrieved against the said order of dismissal, the third respondent filed A.S.No.33 of 2006 before the Sub-Court, Sivakasi and the same was also dismissed on 19.02.2008. That apart, adjacent land comprised in Survey Nos.1474 and 1475 were also subject property for registration. However, on the objection raised by the third respondent, it was rejected for registration. The said rejection order was also challenged before this Court in W.P(MD)No.6338 of 2015 and this Court by an order, dated 24.11.2022 set aside the impugned order and directed the registering authority to register the same in respect of the property comprised in Survey Nos.1474 and 1475. Suppressing the said fact, the third respondent once again filed a suit in O.S.No.62 of 2013 on the file of the District Munsif, Sivakasi and it was



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pending without any interim order. Therefore, the third respondent failed to prove his title over the property and the mere objection is not a ground for refusal to register the document.

5. The third respondent filed a counter and submitted that the properties comprised in Survey No.1478, Keezhathiruthangal Village are the Karthigai Kattalai properties to do the Pooja and other performance called as Karthikai Kattalai and Arthajama Kattalai. As per the revenue records, the said landed properties are covered by the Title Deed No.414. The properties comprised in S.Nos.1441(10.61 Acres), 1442 (1.31 Acres) 1443 (2.76 Acres, 1444(3.16 Acres) 1445 (4.56 Acres) 1446 (1.55 Acres) 1447 (2.21 Acres) 1448 (5.40 Acres) 1466 (2.13 Acres), 1474 (2.24 Acres) 1475 (2.14 Acres) 1476 (1.60 Acres) 1477 (3.53 Acres 1478 (1.19 Acres) and 1479/3 (0.79 Acres) totally an extent of 45.07 situated at Keezhathiruthangal Village, Thiruthangal Sub-Division, Sivakasi Taluk, Virudhunagar District are coming under both the Kattalais for several decades attached with the third respondent. In respect of the subject property is concerned, it belongs to the Karthikai Kattalai and the same is evident from the title deeds and the revenue records of the third respondent. The suit as mentioned above is in respect of the property comprised in some other trust and it does not cover within the survey,



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unfortunately, it is not brought to the knowledge of this Court and as such, this Court in W.P(MD)No.6337 of 2015 by an order, dated 24.11.2022 set aside the refusal check slip and directed the respondent to register the document. The third respondent also taking steps to file a writ appeal as against the order. Now, the suit is pending in O.S.No.62 of 2013 on the file of the District Munsif Court, Sivakasi and subsequently, transferred to Principal District Court, Virudhunagar District at Srivilliputhur in O.S.No.174 of 2023 and it is pending for adjudication in respect of the subject property along with other properties under the Karthigai Kattalai.

6. The temple authorities raised a specific objection. The second respondent ought to have conduct an enquiry as directed by the Hon'ble Division Bench of this Court with regard to the objection raised by the third respondent.

7. In this regard, the Hon'ble Division Bench of this Court in the case of ***Sudha Ravi Kumar & Others Vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department and Others*** reported in ***2017 (3) CTC 135*** held as follows:



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“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 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



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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 view of the above, the petitioner is directed to represent the document for registration. On receipt of the same, the second respondent is directed to issue notice to the petitioner as well as the third respondent and conduct an enquiry by giving an opportunity of hearing and pass final orders on merits and in accordance with law, within a period of four weeks thereafter.

9. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Internet : Yes
Index : Yes/No
Speaking/Non Speaking order
am

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To

- 1.The District Registrar,
Virudhunagar District,
Virudhunagar.
- 2.The Sub-Registrar,
Thiruthangal,
Sivakasi Taluk,
Virudhunagar District.



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G.K.ILANTHIRAIYAN, J.

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