



W.P (MD).No.26262 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.11.2024

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

W.P (MD).No.26262 of 2024

and

W.M.P(MD)No.22261 of 2024

Srikanthan

... Petitioner

Vs.

1.The District Registrar,
Kumbakonam.

2.The Sub-Registrar,
Thiruvudaimaruthur Sub-Registrar Office,
Thiruvudaimaruthur,
Thanjavur District.

3.Arulmigu Venkatachalapathi Swamy Temple,
Rep. by its Assistant Commissioner/Executive Officer,
Oppiliappan Koil,
Thirunageswaram,
Thanjavur District-612 204.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings in Na.Ka.No.174/2023 dated 21.08.2023 issued by the second respondent and quash the same as illegal and consequently direct the second respondent herein to register the said document presented by the petitioner with regard to the property to an extent of the 2153 sq.ft in old



W.P (MD).No.26262 of 2024

Survey No.196/8D1A & Natham Survey No.409/27 situated in Sannapuram Village, Thiruvidadaimaruthur Sub Registrar Office, Thanjavur District, within a time frame fixed by this Court.

For Petitioner : Mr.R.Srinivasan
For R1 & R2 : Mr.S.P.Maharajan
Special Government Pleader
For F3 : Mr.V.Chandrasekar

ORDER

This writ petition has been filed challenging the refusal check slip issued by the second respondent, dated 21.08.2023 thereby, refused to register the sale deed, dated 10.07.2023, which was presented for registration.

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

3. The property admeasuring an extent of 2153 comprised in old Survey No.196/8D1A and Natham Survey No.409/27 situated in Sannapuram Village, Thiruvidadaimaruthur Panchayat, Kumbakonam Taluk, Thanjavur District owned by P.S.Varatharachari. The said P.S.Varatharachari executed a will in favour of his daughter Padma Veeraraghavan dated 30.08.1979 registered as Doc.No.114 of 1979 bequeathing the said property. Subsequently, P.S.Varatharachari died on 02.06.1987 and the above said will came into force.



W.P (MD).No.26262 of 2024

The said P.S.Varathachariyar had a son and a daughter namely Sadagopalan and Padma Veeraraghavan. Patta was initially stands in the name of his son namely Sadagopalan. The said Padma Veeraraghavan died intestate on 10.10.2010 leaving behind her legal heirs. Her legal heirs became the owner of the property admeasuring an extent of 2153 sq.ft of the subject property. The petitioner possess a 1/3rd share of the aforementioned property and he decided to settle this 1/3rd share of the property to his brother Mukunthamani. A settlement deed was prepared along with power of attorney executed by his son on 10.07.2023. Subsequently, he presented the document for registration before the second respondent. However, the third respondent raised an objection and the second respondent refused to register the same and directed the petitioner to get no objection certificate from the third respondent.

4. Admittedly, the second respondent without conducting any enquiry and merely based on the objection received from the third respondent mechanically refused to register the sale deed. 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.



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5. 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:

“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.



W.P (MD).No.26262 of 2024

WEB COPY

(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.

(vi) Consequently the connected miscellaneous petitions are closed. No costs.”

6. In view of the above, the impugned refusal check slip cannot be sustained and is liable to be quashed. Accordingly, the impugned refusal check slip dated 21.08.2023 is hereby quashed. The petitioner is directed to re-present the sale deed. On receipt of the same, the second respondent is directed to issue notice to the petitioner and the third respondent and conduct an enquiry and to register the sale deed presented by the petitioner, within a period of four weeks from the date of presentation of the sale deed for registration.



W.P (MD).No.26262 of 2024

Accordingly, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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

13.11.2024

To

- 1.The District Registrar,
Kumbakonam.
- 2.The Sub-Registrar,
Thiruvudaimaruthur Sub-Registrar Office,
Thiruvudaimaruthur,
Thanjavur District.



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W.P (MD).No.26262 of 2024

G.K.ILANTHIRAIYAN, J.

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W.P (MD).No.26262 of 2024

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