



W.P.(MD)No.28233 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.11.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD)No.28233 of 2024

T.Ananthakumari

...Petitioner

-Vs-

1.The District Registrar,
Nagercoil,
Kanyakumari District.

2.The Sub-Registrar,
Vadasery,
Kanyakumari District.

3.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Nungambakkam, Chennai.

4.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
Tirunelveli District,
Tirunelveli.

5.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Nagercoil, Kanyakumari District. ...Respondents



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Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned refusal check slip issued by the 2nd respondent in RFL/Vadasery/109/2024, dated 11.11.2024 and quash the same and further directing the 2nd respondent to entertain the Memorandum of Deposit of Title Deed, dated 20.09.2024 for registration and consequently to register and release the same.

For Petitioner : Mr.M.P.Senthil

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader
for RR1 to 5

ORDER

This writ petition has been filed challenging the refusal check slip issued by the second respondent dated 11.11.2024, thereby refused to register the sale deed presented by the petitioner for registration in respect of the property comprised in survey No.733/4 to an extent of 27 ares(66.6 cents) situated at Vadasery Village, Agatheeswaram Taluk, Kanyakumari District on the ground that the Hindu Religious and Charitable Endowment Department objected for registration in respect of the subject property.



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WEB COPY 2.The property comprised in survey No.733/4 to an extent of 27 ares(66.6 cents) situated at Vadasery Village, Agatheeswaram Taluk, Kanyakumari District originally belongs to one private temple, namely, Shri Kaniyakulam Kantan Sastha Temple which was managed by the family of H.Narayanan, V.Sankaran, Gomathi Narayanan, Rajambal, N.V.Subramaniyan, Shoba Hariharan, N.Sathasivam and N.Srinivasan. As early as in the year 1961, there was a dispute arose between the family members and found that the said temple as well the then Board and Hindu Religious and Charitable Endowment Department, which resulted in filing of O.A.No.56/1961 before the Deputy Commissioner of Hindu Religious and Charitable Endowment Department, Madurai, seeking for the relief that the said temple is a private temple and does not fall within the purview of Hindu Religious and Charitable Endowment Department.

3.The said O.A.No.56 of 1961, was dismissed and an appeal was preferred under Section 69(1) of the Hindu Religious and Charitable Endowment Act before the third respondent in Appeal No.8 of 1965 and the same was allowed and by an order dated 21.09.1965, thereby declared that the said temple does not come under the purview of Section 6(20) of the Hindu



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Religious and Charitable Endowment Act and or that the properties are religious endowment as defined under Section 6(17) of the Hindu Religious and Charitable Endowment Act.

4.In turn, one of the family members of the said temple had executed the power of attorney in favour of one H.Narayanan on 29.08.2008, registered vide document No.1126/2008. Subsequently, the other family members had also executed the power of attorney had in favour of one H.Narayanan registered sale deed, dated 12.02.2009, vide document No.38 of 2009. Based on the above mentioned power of attorney, the said H.Narayanan had sold an extent of 27 ares in favour of one Umakamal Rani by the registered sale deed dated 09.04.2009, registered vide document No.615 of 2009.

5.In fact, even at the time of presentation of the said sale deed for registration, there was an objection and registered the sale deed to an extent of 27 ares. Subsequently, it was plotted out as house sites in which the petitioner had purchased the plot No.11 to an extent of 3 and ½ cents registered vide document No.2288 of 2009, dated 27.11.2009. Thereafter, the entire revenue records were mutated in favour of the petitioner. The petitioner has also availed loan from the LIC Housing Finance Limited by depositing the title deed of the



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subject property. The said memorandum of deposit was registered vide document No.2563 of 2013, dated 28.11.2013. After repayment of the entire loan, the property was released in favour of the petitioner on 12.09.2024 registered vide document No.2373 of 2024. Now, in order to meet out the educational expenses for the petitioner's daughter, the petitioner has applied for educational loan. The bank has also sanctioned loan to the tune of Rs.10,00,000/- by depositing the title deed which was presented before the second respondent for registration. However, it was refused to register and directed the petitioner to obtain No Objection Certificate from the Hindu Religious and Charitable Endowment Department.

6.As per the order passed by the third respondent in appeal No.8 of 1965, dated 21.09.1965, the said property does not come under the purview of the Hindu Religious and Charitable Endowment Department. Therefore, the third respondent has no right over the sale deed, since it is a private temple property. All the family members as narrated above have executed the power of attorney in favour of one H.Narayanan. Thereafter, they had executed the sale deed in favour of one Umakamal Rani. Subsequently, there were transactions and as such, the second respondent ought not to have insisted the petitioner to obtain No Objection Certificate for registering the memorandum of deposit for the title



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deed.

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7.In view of the above, the impugned order of refusal check slip issued by the second respondent is hereby quashed. The petitioner is directed to re-present the memorandum of deposit of title deed for registration and on receipt of the same, the second respondent is directed to register the same and release forthwith.

8.With the above said directions, this writ petition stands allowed. No costs.

27.11.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
RJR



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G.K.ILANTHIRAIYAN. J,

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