



W.P (MD).No.27826 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.11.2024

CORAM

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

W.P (MD).No.27826 of 2023

A.Akbar

... Petitioner

Vs.

1.The Sub-Registrar,
Melur East Sub-Registrar Office,
Madurai District.

2.The Tamilnadu Waqf Board,
Rep. by its Chief Executive Officer/
Estate Officer,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Backside of Customs House,
Chennai-600 001.

... 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 slip in S.No.02/2023 dated 18.10.2023 issued by the first respondent and quash the same as illegal and consequently direct the first respondent to register the sale agreement deed presented by the petitioner within a time stipulated by this Court.



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For Petitioner : Mr.PR.Prithiviraj
For R1 : Mr.D.Sadiq Raja
Additional Government Pleader
For R2 : Mr.Ajmal Khan
Standing Counsel

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 18.10.2023, thereby, refused to register the sale agreement which was presented for registration in respect of the subject property.

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. 352/14C admeasuring 1308 sq.ft, out of 6 cents by a registered sale deed, dated 13.05.2016 vide document No.2236/2016. Thereafter, the petitioner had entered into an agreement for sale deed with the third respondent in respect of the subject property on 18.10.2023 and the same was presented for registration before the first respondent. However, it was rejected by issuing refusal check



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slip on the ground that the second respondent made an objection stating that the subject property belongs to the Waqf. As per the Letter, dated 22.09.2021 issued by the BC, MBC & MW Department, the Inspector General of Registration, Chennai thereby, issued a direction not to register the document alienating the Waqf property. On the basis of the said direction, the first respondent refused to register the sale agreement by issuing a Refusal Check Slip.

4. The learned counsel for the petitioner would submit that though the second respondent raised an objection, he has failed to produce any piece of evidence to show that the subject property belongs to him. Mere objection by way of letter won't be sufficient to refuse the registration of the documents. In this regard, the Hon'ble Division Bench of this Court in the case of Sudha Ravikumar v. The Special Commissioner reported in AIR 2017 Mad 203, held as follows:-

"the registering authority is not bestowed with any quasi-judicial function to hold a roving enquiry in respect of the title to the property. But he has to hold a summary enquiry for the limited purpose of satisfying himself that the document deserves to be registered. Such enquiry is neither judicial nor quasi-judicial."



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5. In view of the above, the petitioner is directed to re-present the sale agreement for registration before the first respondent. On receipt of the same, the first respondent is directed to issue notice to the petitioner as well as the second respondent and to conduct an enquiry and pass appropriate orders to register the sale deed presented by the petitioner and release the document in favour of the petitioner, after giving an opportunity of hearing to both parties, within a period of four weeks thereafter. Accordingly, this writ petition is disposed of. No costs.

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

08.11.2024

To

The Sub-Registrar,
Melur East Sub-Registrar Office,
Madurai District.



WEB COPY



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G.K.ILANTHIRAIYAN, J.

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