



W.P.(MD)No.28793 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.12.2024**

CORAM:

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

W.P.(MD)No.28793 of 2024

Lingaprameshwari

... Petitioner

/Vs./

The Sub Registrar,
Kamuthi,
Ramanathapuram District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Check slip order in RFL/Kamuthi 37/2024 dated 07.10.2024 and quash the same and consequently direct the respondent to forthwith register the deed of General Power of Attorney dated 07.10.2024 within stipulated time fixed by this Court.

For Petitioner : Mr.N.Madhava Govindhan

For Respondent : Mr.S.P.Maharajan

Special Government Pleader



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ORDER

This writ petition has been filed challenging the refusal check slip issued by the respondent, thereby, refused to register the Power of Attorney document dated 07.10.2024 and direct the petitioner to obtain an order from the High Court to deal with the property comprised in Survey No.604/6 to an extent of 2.54 acres out of 1.50 acres under patta No.1293 situated at Kamuthi Village, Kamuthi Taluk, Ramanathapuram District.

2. By consent of both parties, the Writ Petition is taken up for final disposal at the admission stage itself.

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

4. The properties comprised in Survey No.604/6 to an extent of 2.54 acres out of 1.50 acres under patta No.1293 situated at Kamuthi



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Village, Kamuthi Taluk, Ramanathapuram District owned by the Tamil Evangelical Lutheran Church (herein after called as TELC) and one Vijayakumar was appointed as Power of Attorney to deal with the subject property. In turn, he had given a power of attorney to the petitioner and another person to deal with the property. The said power of attorney was presented for registration on 07.10.2024, however, it was refused to register by the respondent on the ground that already there is an order passed by this Court in W.P.No.11679 of 2017 and the circular dated 24.05.2017. The very same issue is already dealt with by this Court in W.P(MD)No.8319 of 2023 in which this Court held as follows:-

"5. I carefully considered the rival contentions and went through the materials on record. The circular issued by the IG of Registration on 24.05.2017 is based entirely on the interim order passed by the Hon'ble Division Bench on 04.05.2017. The learned counsel appearing for the petitioner draws my attention to the order dated 27.07.2017 in W.P.No. 11679 of 2017. It is true that the writ petition was withdrawn by the learned counsel in view of the circular issued by the District Registrar (Guideline). Copy of the said circular reads as follows:-



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“ Copy of the Hon'ble High Court Order in the reference cited is enclosed herewith. As per the Hon'ble High Court Order, it is hereby informed not to register any document in respect of the properties, belonging to or owned by the fourth respondent Church, without getting permission from the Hon'ble High Court ”

The above circular was not a statutory direction issued by the IG of Registration. It is a mere communication by the District Registrar (Guideline) intimating all the Sub Registrars, District Registrars and the Deputy Inspector Generals of Registration about the interim order passed by the High Court. I fail to understand as to why the learned counsel for the petitioner therein withdrew the writ petition by citing the said circular. It is well settled that an interim order cannot have life beyond the termination of the main writ petition. In fact, the order dated 27.07.2017 disposing the main writ petition states that the connected miscellaneous petitions are also closed. W.M.P.No.12710 of 2017 is also mentioned in the said order. I therefore have to proceed on the footing that as on date, there is no restraint order issued by the Hon'ble High Court in respect of TELC properties in general. 6. The next question that calls for consideration is whether Section 22(A)(1) of the Registration Act, 1908 can be invoked to sustain the



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impugned order. Section 22-A (1) of the Registration Act, 1908 is as follows:- “22-A. Refusal to register certain documents:-Notwithstanding anything contained in this Act, the registering officer shall refuse to register any of the following documents, namely:- (1) instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease,- (i) belonging to the State Government or the local authority or Chennai Metropolitan Development Authority established under Section 9-A of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972); (ii) belonging to or given or endowed for the purpose of any religious institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) is applicable; (iii) donated for Bhoodan Yagna and vested in the Tamil Nadu State Bhoodan Yagna Board established under Section 3 of the Tamil Nadu Bhoodan Yagna Act, 1958 (Tamil Nadu Act XV of 1958) ; or (iv) of Wakfs which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995 (Central Act 43 of 1995), unless a sanction in this regard issued by the competent authority as provided under the relevant Act or in the absence of any such authority, an authority so authorised by the State Government for this purpose, is produced before the registering officer;” There are two aspects. One is the right to register a transaction. The



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other is the power to refuse registration. The provisions pertaining to the power to refuse registration must be strictly construed. Their scope and ambit should be confined to what the restrictive provisions specifically envisage and contemplate. Section 22-A and Section 22-B which were inserted by TN Act 28 of 2012 and TN Act 41 of 2022 respectively cannot be liberally or expansively interpreted. It is seen that in Section 22-A, only immovable properties belonging to, or given or endowed for the purpose of, any religious institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and Wakf properties under the superintendence of the Wakf Board are covered. Church properties have not been granted similar protection. I have personally come across quite a few cases wherein church properties have been illegally and unlawfully alienated. There is a popular saying in Tamil “rptd; nrhj;J Fyehrk;”. The belief is that misappropriating temple property will destroy the family of the person committing the act. When the Registration Act contains a provision to protect the properties endowed under Hindu and Islamic Laws, it is surprising that the church properties are not covered. The logical reason that one can give is that in the case of Hindu religious endowments and Wakf properties, there are specific legislations, in the case of church properties, a similar law appears to be absent. India is a secular country. It means that



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the State should approach all the religions alike. Probably the time has come to include the church properties also within the scope of Section 22-A of the Act. This is a call which future should take. As on date, Section 22-A is not applicable to transactions involving church properties. Looked at from any angle, I do not find any justification for the second respondent declining to register the document in question."

6. In view of the above, this Court finds infirmity in the order passed by the respondent, dated 07.10.2024 and it cannot be sustained and liable to be quashed.

7. Accordingly, the order of the respondent dated 07.10.2024 is quashed and the writ petition is allowed. The petitioner is directed to represent the Power of Attorney before the respondent for registration and on receipt of the same, the respondent is directed to register the same and release the document forthwith. No costs.

03.12.2024

Index : Yes / No
Internet : Yes/No
NCC : Yes / No
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TO:-

The Sub Registrar,
Kamuthi,
Ramanathapuram District.



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G.K.ILANTHIRAIYAN, J.

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Order made in
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Dated:
03.12.2024