BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **31.01.2025**

CORAM:

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

W.P.(MD)No.2870 of 2025

R.Jeyaraj ... Petitioner

/Vs./

1. The Sub Registrar,
   Sub Registrar Office,
   Sankarankovil,
   Tenkasi District.

2. Arulmigu Sankaranarayanasamy Temple,
   Represented By The Assistant
   Commissioner / Executive Officer,
   Sankarankovil,
   Tenkasi District. ... Respondents

PRAYER**:** Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the impugned Refusal Check Slip in Refusal Number RFL/ Sankarankovil/9/ 2025 dated 24.01.2025 issued by the 1st respondent and quash the same as illegal and consequently direct the 1st respondent to register the documents to be submitted with regard to Plot No. 50 comprised in Survey No. 620/2, bearing old Door No. 5/748, measuring to an extent of 376.25 Sq.m with constructed building and all its appurtenances in

N.G.O. A Colony situated at Kalappakulam Village, Sankarankovil Taluk, Tenkasi District within a time frame fixed by this Court.

For Petitioner : Mr.R.J.Karthick
For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

Challenging the impugned refusal check slip issued by the 1st respondent, the petitioner has filed this Writ Petition.

2. The facts of the Writ Petition are that the subject land originally belongs to Arulmigu Sankaranarayanasamy Temple. The said lands were given as service Maniam to poojamurai Bhattars and the pattas were granted in their name under the Act 30 of 1963. The Poojamurai Bhattars sold the said lands to "N.G.G.Os and other public servants Co-operatives Building Society Limited" (hereinafter referred to as "the said Society"), without getting prior sanction from the Commissioner, Hindu Religious and Charitable Endowments Department as required under Section 34 of the Act. Challenging the same, the temple authorities filed a suit in O.S.No.181 or 1975 before the District Munsif Court, Sankarankovil and the same was decreed in favour of the temple. Against which, the society and bhattars had filed an appeal in A.S.No.23 of 1977 before the Subordinate Court, Tenkasi. Pending the appeal, the society and bhattars had arrived at a compromise. Therefore, a proposal has been forwarded to the Commissioner for compromising the issue and the Commissioner, HR & CE Department, vide proceedings dated 22.02.1982, permitted the temple to compromise the issue on condition that the sale consideration should be deposited to the temple. Accordingly, the poojamurai bhattars had executed a registered release deed dated 03.04.1982 in favour of the said Society. The said Society converted the subject land into house plots and thereafter, various sale transactions have been taken place. When the same was presented for registration, the 1st respondent has issued the impugned refusal check slips and directed the petitioner to get No Objection Certificate from the 2nd respondent. Challenging the same, the petitioner has filed the Writ Petition.

3. The learned counsel appearing for the petitioner would submit that this Court has allowed the similar Writ Petition in W.P.(MD)No.19077 of 2022, by an order dated 22.08.2022, and the petitioner is also placed in a similar situation. Therefore, he is entitled to the same relief.

4. The learned counsel appearing for the respondent temple would that the Commissioner, HR & CE Department has granted permission to compromise the issue on a condition that the Executive Officer of the Devasthanam should get a sanction for sale of the property by submitting an appropriate application under Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. Though there is a condition imposed by the Commissioner that the Executive Officer should get sanction, no such sanction has been obtained. Therefore, the sale is not valid under Section 34 of the HR & CE Act. Hence, he opposed the Writ Petition.

5. Heard the learned counsel on either side and perused the materials available on record.

6. On a perusal of the HR & CE Act, it is seen that Section 34 of the HR & CE Act mandates the sanction for sale of any property and the sanction shall be given by the Commissioner with the previous approval of the Government. Admittedly, in this case, the properties have been dealt with long back in the year 1975, which was the subject matter of the suit filed by the 2nd respondent temple in O.S.No.181 of 1975. On an appeal in A.S.No.23 of 1977, realizing the fact that as the property has been sold and developed as house site, it is not feasible to retrieve the property, the Commissioner has granted permission to enter into a compromise, on the conditions that the amount should be deposited to the temple and the Executive Officer of the Devasthanam should get a sanction for sale of the property by submitting an appropriate application. The Commissioner has passed such a detailed order after taking note of the report of the District Revenue Officer and Deputy Commissioner of HR & CE Department with the approval of the Government. Therefore, when the Commissioner has ratified the sale and merely because, the requisite application under Section 34 of the HR & CE Act has not been filed for post facto approval, it cannot be said that the entire sale could be nullified. When the Commissioner has allowed the compromise and sale has already been made and accepted, it has to be held that there is a deemed sanction under Section 34 of the HR & CE Act, to resolve the issue.

7. It is also relevant to note that in a similar Writ Petition in W.P.(MD)No.19520 of 2021, a specific stand has been taken by the 2nd respondent temple and this Court has recorded the same as follows:

> *"4. Today/30.11.2021, Mr.V.R.Shanmuganathan, learned counsel for the second respondent had presented instructions in writing wherein it had been informed that the second respondent Temple, originally owned lands measuring more than 13.58 acres in Survey No.619. Subsequently, a substantial portion of that particular land measuring 8.85 acres had been sold to a particular society and the second respondent/the Assistant Commissioner representing the Temple had also issued No Objection Certificate with respect to any further transaction relating to the said 8.85 acres.*
>
> *5. A survey was conducted in the presence of recognized surveyors to identify the land primarily the entire 13.58 acres of the Temple, the 8.85 acres sold by the Temple to the Society and also the land of the petitioner which he claims that he had purchased from the Society. The result of the survey had been stated in the written instructions forwarded by Mr.V.R.Shanmuganathan, learned counsel for the second*

respondent. A sketch had also been given.

6. I hold that it would only be appropriate that the sketch is also annexed to this order. In that sketch, the yellow marked portion is now retained by the Temple. The small pink with the black mark is the land now intended to be purchased by the petitioner herein. It is claimed that it is quite far away from the land of the Temple and that the second respondent can therefore have no objection whatsoever in that land being conveyed to the petitioner herein.

7. In view of the categorical statement, I would direct the first respondent to receive the sale deed which had been refused to register, re-examine the entire issue and thereafter, to proceed further in manner known to law provided that documents are otherwise in order with respect to stamp duty and registration charges."

8. When the authorities are also aware of the fact that the properties have been sold long back, merely on technical aspect, they cannot non-suit the settled issues. In view of the fact that the proceedings has already been issued by the Commissioner permitting the compromise, it has to be held that there is a deemed sanction not only for compromise but also the sale of the property, which has already been took place in the year 1975.

9. In such view of the matter, as the plots have already been developed and which have also been earmarked, there shall not be any direction not to register any documents hereafter in respect of above survey numbers. Merely on the basis of objection, the rights of the parties, which have already been crystallized, cannot be taken away. Therefore, the impugned refusal check slip issued by the 1st respondent is liable to be quashed.

10. Accordingly, the impugned refusal check slip dated 24.01.2025 issued by the 1st respondent is quashed and the Writ Petition is allowed. The 1st respondent is directed to register the documents submitted by the petitioner, within a period of two weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

31.01.2025
(2/2)

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

1. The Sub Registrar,
   Sub Registrar Office,
   Sankarankovil,
   Tenkasi District.

2. Arulmigu Sankaranarayanasamy Temple,
   Represented By The Assistant
   Commissioner / Executive Officer,
   Sankarankovil,
   Tenkasi District.

G.K.ILANTHIRAIYAN, J.

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Order made in
W.P.(MD)No.2870 of 2025
(2/2)

Dated:
31.01.2025