

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.02.2015

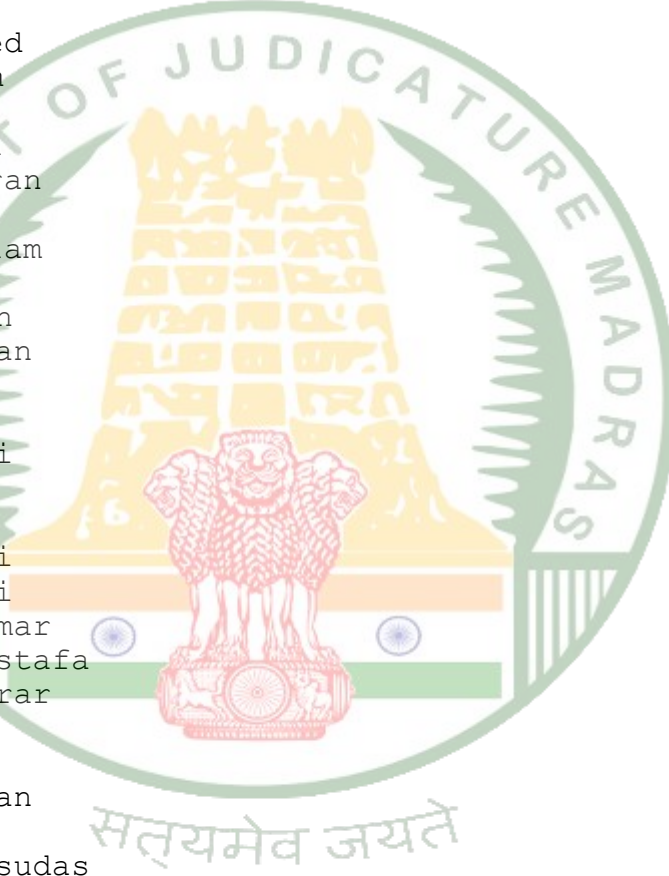
CORAM :

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.Nos. 31927 to 31933 OF 2012

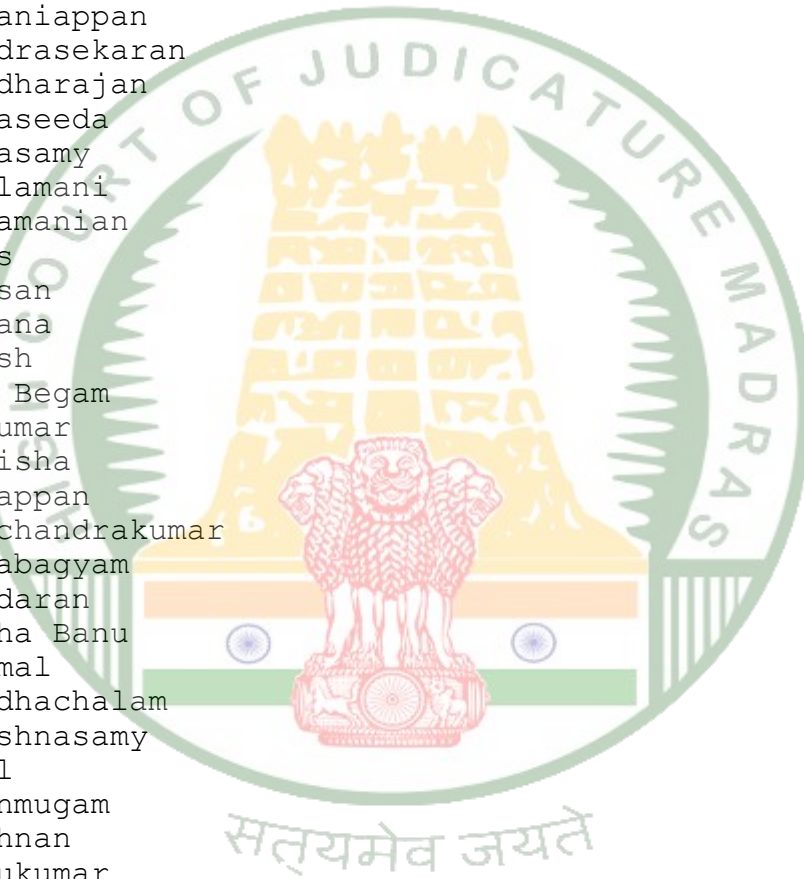
W.P.No.31927 of 2012

1. R. Subburam
2. A. Rafiq Ahemed
3. A. Subramaniam
4. S. Banumathi
5. S. Jayalakshmi
6. M.P.Ramachandran
7. C.K. Arumugam
8. R.K. Subramaniam
9. T. Thangavel
10. K. Navaneethan
11. T.K. Sudhaharan
12. N. Manoharan
13. K. Murugan
14. R. Kandhimathi
15. M. Aruchamy
16. R. Dharmaraj
17. K. Sasidra Bai
18. K. Kanjanadevi
19. Dr. S. Nandhakumar
20. K. Mohamed Mustafa
21. A. Wilson Katrar
22. R.R. Rajendran
23. B. Kaarthick
24. K. Anbalagarayan
25. N.P. Ramu
26. D. Manohar Jesudas
27. C.K. Arumugam
28. G. Victoria
29. V. Dhanapaul
30. G. Natarajan
31. M. Kamalam Manoharan
32. S. Vaiyapuri Gounder
33. L. Sathiyarayanan
34. F. Vincent Paul
35. V. Kamalachi
36. G. Shanmuganathan



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37.R.M.Mohamed Abdul Rahman
38.K.Divakaran
39.K. Sengodan
40.P.Shanmugam
41.Dr.S.Nandhakumar
42.Saraswathi
43.C.V.Krishnan Kutti
44.G.Devasagayam
45.N.Ranganayaki
46.J.Sundari
47.M. Mumtaj
48.S.Hasan Muhamed
49.K. Palaniappan
50.V.Chandrasekaran
51.V.Varadharajan
52.P.A.Praseeda
53.A.Rangasamy
54.G.Masilamani
55.A.Subramanian
56.D.Louis
57.M.Ganesan
58.Sulochana
59.A.Ramesh
60.Farida Begam
61.Muthukumar
62.Maomunisha
63.Palaniappan
64.K.Ravichandrakumar
65.E.Dhanabagyan
66.K.Damodaran
67.Saheetha Banu
68.G.Perumal
69.K.Marudhachalam
70.K. Krishnasamy
71.K.Gopal
72.K. Shanmugam
73.A.Krishnan
74.K.Muthukumar
75.M.Dhanalakshmi
76.Sivanandam
77.R.P.Ramasamy
78.Visalakshi
79.G.Jayagopal
80.M.Devaki
81.Vasanthamani
82.C.N.Subash Chandran
83.C.N.Suresh Babu
84.Geetha Rani



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85.Dr.K.Parasuraman
86.Manikkaraj
87.S.Girija Devi
88.Mena Chaplot
89.Subalakshmi
90.R.Saradambal
91.P.Manikannan
92.Padmavathi
93.G.Gnanasekaran
94.Anthonio Edward Charles
95.R.Jayaprakash
96.Rosemary

... Petitioners in W.P.No.31927/12

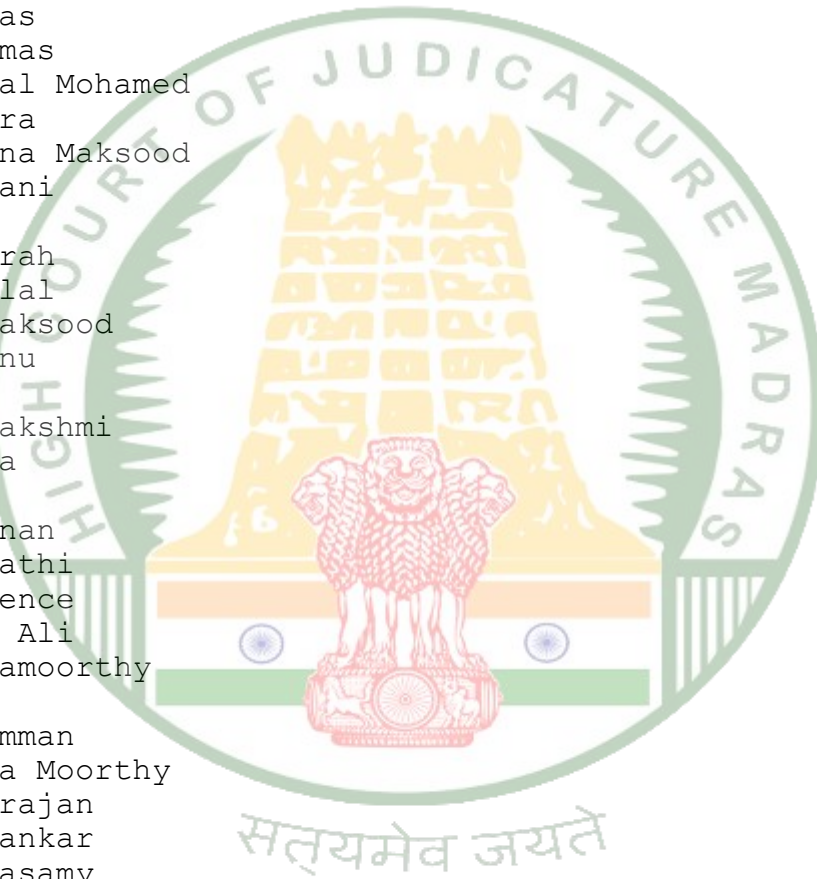
W.P.No.31928 of 2012:

1.T.P.Maksood Ahamed
2.R.Marimuthu Krishnan
3.V.Balaji Ranganathan
4.V.Kamalam
5.M.A.Mohamed Ismail
6.P.Jayakumar
7.S.Mangaiarkarasi
8.Gilbert John Pius
9.Indira Fernando
10.K.A.Sulaiman
11.T.Kilikumar
12.S.A.Mohamed
13.V.Karthikeyan
14.A.Krishnan
15.V.Rajarajeswari
16.A.Akbar Shereef
17.I.Suresh Kumar
18.Dr.M.R.Suresh Babu
19.K.S.Hema
20.G.Hemalatha
21.K.Janardhanan
22.M.Arul Prakasam
23.T.Shanmuga Priya
24.S.Rathika
25.B.Moideen
26.M.Musthafa
27.K.Maimoon
28.K.Geetha
29.K.Shanmuga Sundaram
30.K.K.Ponnuswamy
31.H.Wahid Rahman
32.H.Nilofer
33.R.Raveendran



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34.R.Badri Narayanan
35.P.Vasantha Kumari
36.Sadanandam
37.K.Sivadasan
38.P.K.Vimala Sivadasan
39.M.V.Ramalingam
40.C.N.Rajeswari
41.N.Jagadeean
42.M.Suresh Babu
43.M.Mumtaz
44.A.Mohamed Rafi
45.K.Asma
46.V.P.Thomas
47.Elsi Thomas
48.T.P.Phasal Mohamed
49.C.P.Zuhara
50.N.Sulthana Maksood
51.V.Manonmani
52.C.Raman
53.Ismath Arah
54.G.Kanthilal
55.N.Safa Maksood
56.Faisa Banu
57.Sherbena
58.N.Dhanalakshmi
59.D.Kalpana
60.N.Selva
61.V.Narayanan
62.M.Saraswathi
63.C.J.Florence
64.K.Ajmeer Ali
65.B.Sundaramoorthy
66.D.Uma
67.P.Narasimman
68.R.Krishna Moorthy
69.A.Kanakarajan
70.S.Ravishankar
71.E.V.Rangasamy
72.R.Mohan Kumar
73.N.Mani
74.L.Pushpam
75.K.A.Abitha
76.J.Raju
77.M.Jayabaghyam
78.K.J.Vincent
79.Kunjamma
80.M.Jothimani
81.S.Velliyappan



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82.K.K.Kurian
83.Daisey Kurian
84.P.K.Mohamed Rafi
85.C.Arockia Raj
86.M.Shakthivel
87.C.P.Sindhu
88.V.Vinod Kumar
89.P.U.Ummer
90.A.K.Mohamed
91.Sabitha Mohamed
92.K.Karuppusamy
93.K.Pushpa

... Petitioners in W.P.No.31928/12

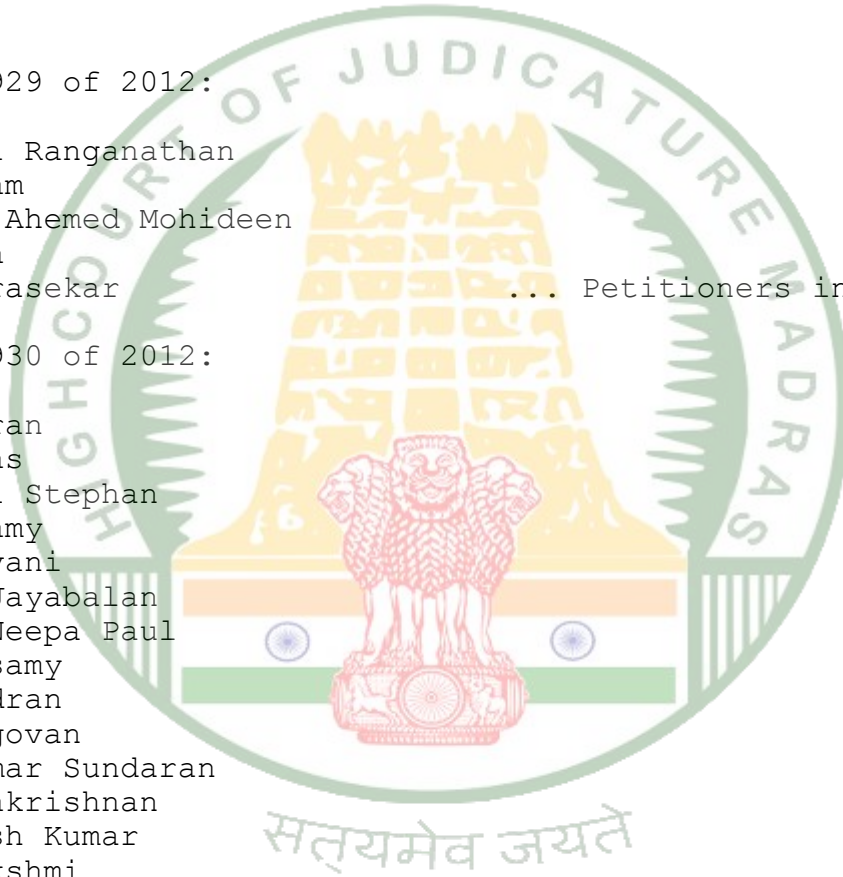
W.P.No.31929 of 2012:

1.V.Balaji Ranganathan
2.V.Kamalam
3.S.Sheik Ahemed Mohideen
4.N.Girija
5.G.Chandrasekar

... Petitioners in W.P.No.31929/12

W.P.No.31930 of 2012:

1.V.Sankaran
2.M.Ramadas
3.J.Carmal Stephan
4.M.Aruchamy
5.M.Kalaivani
6.Geetha Jayabalan
7.Nelson Neepa Paul
8.K.Rangasamy
9.G.Rajendran
10.G.Elangovan
11.AnilKumar Sundaran
12.V.Radhakrishnan
13.B.Suresh Kumar
14.Rajalakshmi
15.P.Muthusamy
16.M.Samuelraj
17.B.Nasheema Banu
18.V.Dhanalakshmi
19.Mehurinisha Begum
20.Savithiri
21.K.Krishnasamy
22.K.Shanmugam
23.K.Gopal
24.K.Maruthachalam



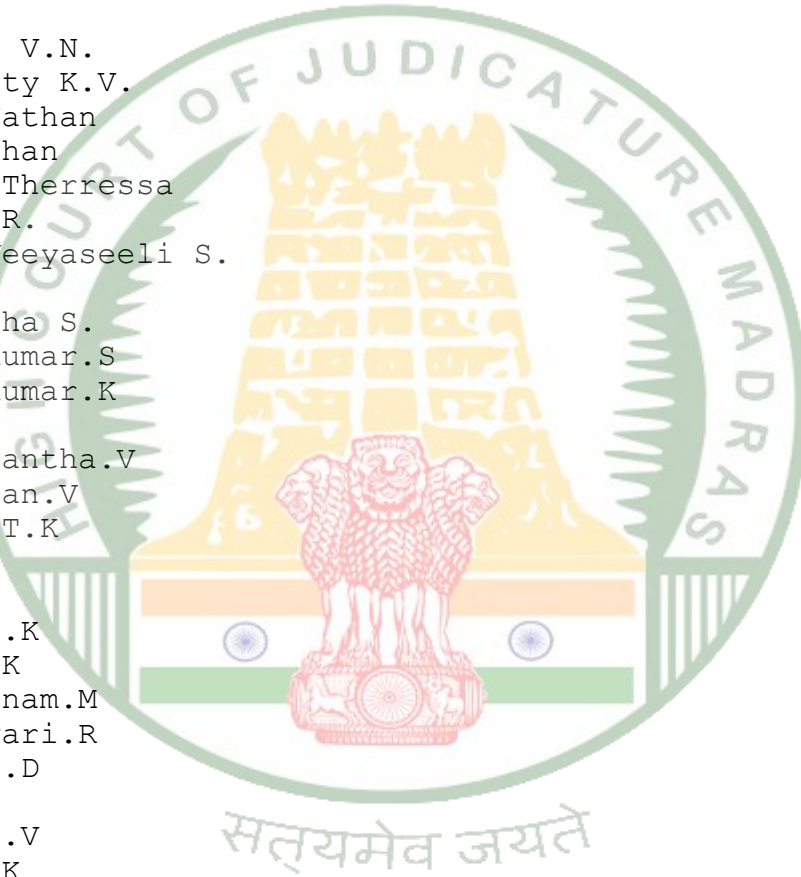
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25.K.Damodarasamy
26.Rukmani

... Petitioners in W.P.No.31930/12

W.P.No.31931 of 2012:

1.M.H.Sirajunisha
2.M.Sivakumar
3.K.Anantha Narayanan
4.Navarathina Kumar.M
5.Kamala.M
6.Vimala.M
7.Kuppu Raj.R
8.Mani K.C
9.Padmavathi V.N.
10.Kunji Kutty K.V.
11.Shanthi Nathan
12.Amrit Nathan
13.Kulandia Therressa
14.Alphonse R.
15.Arputha Jeeyaseeli S.
16.Suyambu S
17.Jaya Amutha S.
18.Krishna Kumar.S
19.Nesavel Kumar.K
20.Roopu.S
21.Milred Ajantha.V
22.Siril Ruban.V
23.Sudhakar T.K
24.Ameena.A
25.D.Chitra
26.Nagarajan.K
27.Suresh.V.K
28.Nagarathinam.M
29.Jagadeeswari.R
30.Nagarajan.D
31.Devidas.C
32.Murugesan.V
33.Velusamy.K
34.Kalimuthu.K
35.Sheela Rose Ramani.S.V
36.Vedandadesikan.S
37.Saraswathi.L
38.Thiruvankadam.L
39.Balaji.L
40.Saji.K.R
41.Jaya Kesari.V
42.Fazilathunnisa.T
43.Thirunavukkarasu.R



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44.Selvabakiyam'
45.Arikkal Kadessa
46.Janaki.G
47.Ramanathan.G
48.Srimathy S.Chandra
49.Ramani.O
50.Cheriyen.T.M
51.Srimathy Susan Cherian
52.Parameswaran.K
53.Rajkumar.R
54.Balaji Sai Ganesh
55.Jothimani.L
56.Sunitha.C
57.Sulaiman.A
58.Haridoss.A
59.Rajani R.Menon
60.Ramesh S.Menon
61.Harirajan.K
62.Govindaraj.S
63.Sundarasamy.P
64.Mahalakshmi
65.Clement Charless.R
66.Chandra Mohan Kumar.D
67.Sheeba.C.D
68.Chakko.K.M
69.Karthikeyan.P
70.Suresh.K.R
71.Neelamani
72.Mohana Chandran.K
73.Sekar.K
74.Navaneetha Krishnan.R
75.Saju.C.D
76.Gopal.P
77.Ajmal Khan.K

... Petitioners in W.P.No.31931/12

W.P.No.31932 of 2012:

1.Babjan.M.H
2.Natarajan.M.S
3.Damodaran.C
4.Rajendran.P.S
5.Uma Rani.P
6.Geetha.P
7.Subramani.R
8.George Zacharia
9.Raphael.P.K
10.Zakir Hussain
11.Jai Punnisa

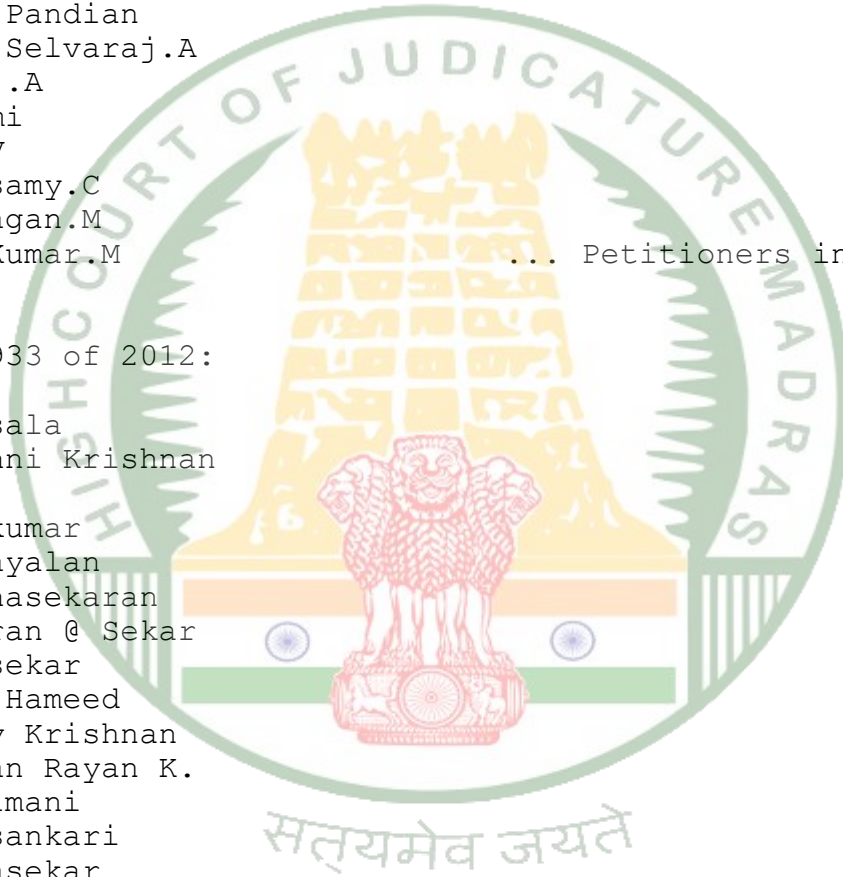
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12.Salma Jabin.S
13.Murugesan.S
14.Abdul Khadar.A
15.S.M.Ummar Farooque
16.Gopala Krishnan.K
17.Natarajan.K
18.Balraj.R
19.Mohanambal.R
20.Narasimmalu.M
21.Vatsala Narasimmalu
22.Thomas.N.K
23.Daisy.T.R
24.Ananda Pandian
25.Ananda Selvaraj.A
26.Kamaraj.A
27.Sivakami
28.Prema.V
29.Palanisamy.C
30.Arivalagan.M
31.Ashok Kumar.M

.... Petitioners in W.P.No.31932/12

W.P.No.31933 of 2012:

1.P.T.Vatsala
2.Vinil Unni Krishnan
3.Minraj
4.Nesavelkumar
5.Dheenadayalan
6.E.K.Gnanasekaran
7.Giridharan @ Sekar
8.G.Gnanasekar
9.I.Sahul Hameed
10.G.Kutty Krishnan
11.Chandran Rayan K.
12.N.Jothimani
13.K.Sivasankari
14.G.Gnanasekar
15.M.Madeena Begum
16.Sahul Hameed N.
17.Gabrial
18.S.M.Dhandapani
19.K.Krishnasamy
20.K.Arvind Kumar
21.V.Subramanian
22.R.Viswanathan
23.S.Rajendran
24.K.K.Renganthan



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25.Veerampulley Francis Pinto
26.G.Natarajan
27.V.Vasanthakumari
28.Lakshmi Ammal
29.K.Mahalakshmi
30.D.Sadasivam
31.V.Elango
32.Muniappan S.M.
33.S.Abdul Jabbar

... Petitioners in W.P.No.31933/12

Vs.

1. The Inspector General of Registration,
Santhome, Chennai.
2. The Joint II Sub Registrar,
(District Registrar Cadet),
Sub Registrar Office,
No.2, Raja Street,
Coimbatore 641 001.
3. The Tamilnadu Wakf Board,
represented by its Secretary,
Tamilnadu Wakf Board,
Chennai 600 001.

... Respondents in all WP's

Prayer in W.P.Nos.31927 to 31933 of 2012 : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, forbearing the 2nd respondent from insisting upon the petitioners from obtaining a "No Objection Certificate" from the 3rd respondent herein while registering any documents relating to the lands comprised in S.F.No.145/2, 163/2, 160/1B, 146/2C, 142/1, 143/1, 146/2A, 165/2, 159/1, 160/12 & 142/2C Kuniamuthur Village, Coimbatore.

For Petitioners in all W.Ps. : Ms.P.T.Asha

For Respondents in all W.Ps. : Mr.R. Vijayakumar
Addl. Govt. Pleader (R1 & R2)
M/s.V.Lakshminarayanan(R3)

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COMMON ORDER

Heard the learned counsel for the petitioners and the Additional Government Pleader appearing for respondents 1 and 2 and the learned counsel appearing for 3rd respondent Wakf Board.

2. The petitioners seek for issuance of Writ of Mandamus to forbear the 2nd respondent from insisting upon the petitioners in obtaining No Objection Certificate from the 3rd respondent while registering any documents relating to the lands comprised in S.F.Nos.145/2, 163/2, 142/2C, 160/2, 146/2A, 165/2, 159/1 and 160/1B, 146/2C, 142/1, 143/1, Kuniyamuthur Village, Coimbatore.

3. It is seen that a similarly placed person as that of the petitioners herein, viz., one J. Nagalakshmi had filed a Writ Petition before this Court in W.P.No.5098 of 2012, wherein, she sought for issuance of Writ of Certiorarified Mandamus to quash the order passed by the Joint II Sub Registrar, Coimbatore dated 22.11.2011, wherein, the Sub Registrar directed the petitioner therein to obtain a No Objection Certificate from the respondent Tamilnadu Wakf Board.

4. This Court, after considering the entire facts as well as the decision of this Court in S.A.No.1410 of 1972, allowed the Writ Petition and quashed the order dated 27.11.2011 and directed the 2nd respondent therein to register the document in respect of properties falling in S.F.No.145/2. At this juncture, it would be beneficial to quote the entire order passed in the said writ petition.

"The case of the petitioner as given in the affidavit is that 9 acres and odd land forming part of T.D.No.70 covered by patta No.170A was granted to one Gulam Mohiden who was a Kazi and the same was a personal grant burdened with service. Although the said properties were not Wakf properties, the 3rd respondent namely, The Madras Wakf Board included these lands as their property under the Wakf called Coimbatore Town Kazi Service Inam and the same was published in the Gazette dated 31.05.1960.

2. On coming to know of this, the then Kazi, Kazi Mohammad Vali Ahmed, the descendant of Gulam Mohideen, filed a suit in O.S.No.1007 of 1960 on the file of the District Munsif Court, Coimbatore against the 3rd respondent herein for declaration that the properties covered by Inam T.D.No.170 of Coimbatore Taluk and those included in Patta No.170A are not Wakf properties and the defendant has no jurisdiction over the said lands. The 3rd respondent defended that the property was Wakf property. The Learned District Munsif after elaborate trial and in due appreciation of oral and documentary evidence granted judgment and decree as prayed for on 17.03.1962.

3. Thereafter, to get over the judgment, an

association called the Kovai Taluk Ahale Sunnath Jamath Podu Nala Manya Committee was formed and this association filed a suit in O.S.No.1222 of 1967 on the file of the District Munsif's Court, Coimbatore against the plaintiff in the suit in O.S.No.1007 of 1960 for the same relief of declaration that the suit properties were Wakf properties and the alienations made in favour of defendants 3 to 8 therein were void. It was defended on the same ground as done in the earlier suit. The trial court after detailed enquiry, dismissed the suit by holding that the properties were not Wakf properties and the suit was barred by res judicata in view of the judgment and decree made in O.S.No.1007 of 1960. The subsequent appeal filed by the respondent in A.S.No.197 of 1971 before the Sub Court, Coimbatore was also dismissed. Finally, Second Appeal 2041 of 1972 was filed before this Court was also dismissed. Thereby, the decree and judgment passed in O.S.No.1222 of 1967 was confirmed.

4. Whiles, when the suit O.S.No.1222 of 1967 was pending another suit was filed by the same association in O.S.No.1346 of 1967 before the District Munsif's Court, Coimbatore for declaration that the suit properties are Wakf properties. The said suit was dismissed and the appeal filed against in A.S.No.95 of 1971 was also dismissed. As against this concurrent judgment and decree, the association filed S.A.No.1410 of 1972 on the file of this Hon'ble Court and that was also dismissed observing that in order to get over the judgment and decree, one association called Kovai Taluk Ahale Sunnath Podu Nala Manya Committee was formed and filed the present suit. The earlier decision in O.S.No.1007 of 1960 was not set aside in the suit. Therefore applying the principle of res judicata, the second appeal was dismissed. After the order of courts, the land was sold by Kazi, Kazi Mohammad Vali Ahmed and his legal heirs. Thereafter layouts have been formed as Thirunavukkarasu Nagar, Rangasamy Naidu Layout, Subbulakshmi Nagar, G.K. Avenue. Now there are about 200-300 houses have been constructed.

5. Thus, it is the case of the petitioner herein that, the petitioner's right over the property has been established in more than one suit and confirmed by the High Court also. The petitioner purchased an extent of 10 cents 46 sq.ft. from one Mrs.Parimala

under the sale deed dated 13.09.1989, presented the same before the 2nd respondent for registration and the same was registered under Doc.No.2612 of 1989 on the file of the 2nd respondent. Her husband had also purchased 10 cents 855 sq.ft. from the same person under a registered sale deed. After their purchase, they obtained no objection certificate from the concerned authorities to put up construction and they had put up construction in the property and paying the property tax in respect of the property. The encumbrance certificate also reflects nil encumbrance.

6. Whiles, when they attempted to register a Memorandum evidencing a mortgage by deposit of title deeds with the 2nd respondent, the 2nd respondent insisted upon the production of no objection certificate from 3rd respondent board stating that the property belonged to 3rd respondent. Since the demand made by the 2nd respondent for production of no objection certificate from the Wakf board is illegal and contrary to the judgments rendered by this Court, this writ petition has been filed for the aforesaid prayer.

7. I have heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for R1 and R2 and I have also gone through the documents available on record including the judgments and decree made in O.S.No.1007 of 1960, O.S.No.1222 of 1967, S.A.No.1410 of 1972 and S.A.No.2041 of 1972.

8. The specific case of the petitioner is that the property which the petitioner owns does not belong to the Wakf as held categorically by the Civil Courts and confirmed by this Court also. Therefore, when the document namely, the Memorandum evidencing a mortgage of the title deeds presented by the petitioner for registration before the 2nd respondent, the same is not being entertained on the ground that the property is not the petitioner's property and that they have been directed to obtain no objection certificate from the 3rd respondent. According to her, the authorities confer a non-existent title upon the 3rd respondent, ignoring the clear verdict of the Civil Courts, confirmed by this Court that the subject property does not belong to Wakf. Failure to consider the same vitiates the impugned order and hence she prays for

setting aside the same.

9. After perusing the above judgments and decree of the Civil Court in Coimbatore in O.S.No.1007 of 1960 and judgments and decree made in S.A.No.2041 of 1972 of this Court, I am convinced that the property owned by the petitioner does not belong to the respondent Wakf board and therefore, the Wakf Board has no say in the matter. Consequently, calling upon the petitioner to produce the no objection certificate from the 3rd respondent Wakf Board is wrong and the demand made is totally contrary to the verdict of this Court. Moreover, the Courts have held that when a document is presented for registration, registering authority shall not demand a No Objection Certificate from Wakf authority or a temple. Besides that, in this particular case, there is a judgment and decree obtained by the petitioner's purchasers in more than one Court confirming the position that the property was not that of Wakf. Therefore, when such is the clear finding rendered by the Courts, one has to come to irresistible conclusion that, the property belongs to the petitioner and not of Wakf Board. As such, the impugned demand made by the 2nd respondent is bad and liable to be interfered by this Court.

10. Hence, this writ petition is allowed and the letter bearing No.1430/2011 dated 27.11.2011 is set aside. The 2nd respondent is hereby directed to register the document in respect of the properties falling in S.F.No.145/2 Kuniamuthur Village, without insisting upon the no objection certificate from the 3rd respondent and the exercise of registration shall be completed by the 2nd respondent on or before 31.03.2012 without fail.

11. In the result the writ petition is allowed in the above terms. No costs."

5. It is submitted that the above order passed in the earlier writ petition dated 22.3.2012 has not been set aside or modified as no appeal has been preferred and the same has become final and the sale deed in favour of the petitioner therein, namely J. Nagalakshmi has been registered and released. There is no material placed before this Court by the Tamilnadu Wakf Board to show as to how the issue involved in present cases are different from the issue involved in W.P.No.5098 of 2012. In fact, the lands in question are also in the same Survey number namely S.F.No.145/2, Kuniamuthur Village.

Hence, the issue involved in these Writ Petitions are squarely covered by the above said decision of this Court . Following the same, these Writ Petitions are allowed and the 2nd respondent is hereby directed to register the document in respect of the properties falling in S.F.No.145/2, Kuniamuthur Village, without insisting upon No Objection Certificate from the 3rd respondent and the exercise of registration shall be completed by the 2nd respondent within a period of four weeks from the date of receipt of a copy of this order, if there is no other legal impediment, subject to the petitioners complying with other formalities for the purpose of registration and release of the document.

6. In the result, these Writ Petitions are allowed on the above terms. No costs. Consequently, the connected M.Ps., if any, in all the Writ Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msr

To

1. The Inspector General of Registration,
Santhome, Chennai.

2. The Joint II Sub Registrar,
(District Registrar Cadet),
Sub Registrar Office,
No.2, Raja Street,
Coimbatore 641 001.

3. The Secretary,
The Tamilnadu Wakf Board,
Tamilnadu Wakf Board,
Chennai 600 001.

+8cc's to M/s.V.Raghavachari, Advocate, S.R.No.8041

+7cc's to M/s.Sarvabhauman Associates, Advocate, S.R.No.7451

+1cc to the Government Pleader, S.R.No.7563

W.P.Nos. 31927 to 31933 OF 2012

RSK(CO)
CA(09/04/2015)