

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.4596 of 2015 &
M.P.No.1 of 2015

Suresh @ Alexander

.. Petitioner

vs.

1 The Sub Registrar
Sembanar Koil
Tharangambadi Taluk
Nagapattinam District.

2. The Joint Commissioner
Hindu Religious Endowments Department
Pattamangala Street
Mayiladuthurai
Nagapattinam District.

3. The Tahsildar
Tharangambadi
Nagapattinam District.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the first respondent in his proceedings Mudivura No.41/2013 dated 16.10.2014; to quash the same and to further direct the first respondent to register the sale deed presented by the petitioner without insisting No Objection Certificate from second respondent.

For Petitioner : Mr.S.Sounthar

For Respondents: Mr.S.Gunasekaran

Government Advocate for
RR1 and 3

Mr.S.Kandasamy

Special Government Pleader for R2

ORDER

Heard Mr.S.Sounthar, learned counsel for the petitioner, Mr.S.Gunasekaran, learned Government Advocate on behalf of respondents 1 and 3 and Mr.S.Kandasamy, learned Special Government Pleader appearing on behalf of second respondent.

2. The petitioner seeks for the issuance of a writ of certiorarified mandamus to quash the proceedings issued by the first respondent dated 16.10.2014. By the said proceedings, the first respondent has directed the petitioner to obtain No Objection Certificate from the second respondent for the purpose of entertaining the form for registration, which was presented before the first respondent. In the impugned proceedings, there is a reference to the communication sent by the second respondent dated 12.08.2013 stating that no document shall be entertained with regard to the property in question until further orders. Therefore, by following the directive issued by the second respondent now, the first respondent is insisting on a No Objection Certificate from the second respondent. The petitioner is said to have purchased the land in question, which was originally classified in the 'A' Register as the land belonging to the Arulmigu Varadaraja Perumal Swamy Temple. According to the petitioner, the said entry in the 'A' Register is a mistake and the petition was given in this regard for rectification of the mistake; after conducting an enquiry and taking into consideration the evidence given by the Village Administrative Officer an order was passed by the Tahsildar on 13.03.2013. Consequently, the 'A' register was rectified and the name of the petitioner, viz., Dhanalakshmi wife of Thangavel was entered and accordingly, patta was also issued in favour of the said Dhanalakshmi vide patta No.1805 dated 15.03.2013. In respect of one other land, patta has been granted in favour of the son of said Dhanalakshmi by name Selvamani in Patta No.531 dated 15.04.2013. The Tahsildar, Dharangampadi, vide proceedings dated 03.06.2013 informed the first respondent that the computer patta issued in respect of Survey No.233/8 in favour of the petitioner measuring an extent of 0.77.5 ares is a genuine document.

3. The learned Special Government Pleader appearing on behalf of the second respondent submitted that though an order has been passed by the Tahsildar on 13.03.2013, it is seen that the second respondent/Hindu Religious and Charitable Endowment Department is taking further action against the said order and in the event, the second respondent is able to obtain favourable orders before the appellate authority, then in the interregnum if any document is registered, the rights of the temple will be affected. Therefore, it is submitted that the interest of the temple should be safe-guarded.

4. Learned Government Advocate appearing on behalf of respondents 1 and 3 while seeking to sustain the impugned order submitted that the insistence of No Objection Certificate is perfectly justified.

5. Considering the facts and circumstances of the case, it is true that as on date, there is an order rectifying the 'A' register and patta has been granted in favour of the petitioner, viz., Dhanalakshmi. Therefore, there could be no impediment in registering

the document and the question of obtaining No Objection Certificate from the second respondent may not arise. But, further it is noted that such patta was issued in favour of the petitioner only during March 2013. The second respondent would submit that they are taking further action pursuant to that only. Hence, the interest of both the petitioner as well as the temple has to be protected.

6. Learned Special Government Pleader appearing on behalf of second respondent by producing a copy of the order passed by this Court in W.P.No.17652 of 2014 dated 04.07.2014, wherein this Court under similar circumstances by referring to the order passed by this Court in W.P.No.1119 and 1120 of 2013, etc. batch dated 27.03.2013 has directed the authorities to register and return the documents to the petitioners therein by making an endorsement that merely on account of registration of the document, it will not be treated as conferring title on the petitioners in any legal or other proceedings, would submit that a similar direction be issued in this writ petition also.

7. It would be worthwhile to refer to the order passed by this Court in W.P.No.1119 and 1120 of 2013, etc. batch dated 27.03.2013 wherein it is held as follows:

"3. Today, learned counsel appearing for the petitioners submitted that the matters in issue is covered by the judgment of this Court made in W.P.No.29896 of 2011, which order was passed on 13.12.2011, by following an earlier order made in W.P.No.23345 of 2006, dated 24.7.2006. The said order was challenged in Appeal in W.A.No.1075 of 2011, which was also dismissed by the Hon'ble First Bench on 15.6.2012. The learned Special Government Pleader H.R.&C.E. for respondents 2 and 3 therefore, submitted that similar order may be passed in these Writ Petitions also. The said facts are not disputed by the learned Government Advocate appearing for the respondents 1 and 4.

4. In view of the same, there will be a direction to the respondents 1 and 4 to register and return the documents to the petitioners without insisting upon any 'No objection certificate' within a period of two weeks from the date of receipt of a copy of this order. It is made clear that this order shall not be treated as conferring title to the petitioners in any legal or other proceedings.

These Writ Petitions are disposed of accordingly".

8. Accordingly, there shall be a direction to the first respondent not to insist upon No Objection Certificate from the second respondent, in the light of the facts stated above. Further the first respondent while registering and releasing the document, if otherwise in order, shall make an endorsement that merely on account of registration of the document, it will not be treated as conferring title on the petitioner in any legal or other proceedings. In other words, it is always open to the second respondent to establish the title of the temple or to pursue their appeal as against the order passed by the third respondent-Tahsildar dated 13.03.2013.

9. With the above direction, this writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vj2

To

- 1 The Sub Registrar
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Nagapattinam District.

+ 1 cc to Mr.S. Sounthar, Advocate SR.9735
+ 2 ccs Government Pleader Sr.10005

RV(CO)
EU 09.03.2015

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