

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:16.02.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.23459 of 2015

B. Dhandapani

... Petitioner

Vs

1. The Sub Registrar,
Sowcarpet,
Davidson Street,
Chennai 600 001.

2. The Executive Officer,
Sri Chennai Malleeswara and
Chennakesavalu Devasthanam Temple,
N.S.C. Bose Road,
Chennai 600 001

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India praying for issuance of Writ of Mandamus to direct the respondent to register the Document P-40/2011 and to give regular number, forthwith release the same without insisting no objection certificate from the temple authorities and for consequential orders .

For Petitioner : M/s.Ravichandran Sundaresan &
K. Syed Zakir Hussain

For Respondent : Mr.R. Vijayakumar
Additional Govt. Pleader (R1)

Mr. S.P. Meenakshi Sundaran (R2)

ORDER

Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the 1st respondent and the learned counsel appearing for the 2nd respondent and perused the materials available on record.

2. Petitioner seeks for issuance of Writ of Mandamus to direct the respondent to register the Document and to give regular number and release the same without insisting No Objection Certificate from the temple authorities.

3. The issue involved in this writ petition is squarely covered by the decision of the Division Bench of this Court made in W.A. No.193 of 2013, dated 21.3.2013.

4. In the said Writ Appeal, the question which arose for consideration was whether the Sub Registrar can insist upon for No Objection Certificate before accepting a document for registration.

5. The Honourable First Bench of this Court, following the decision of the Honourable Supreme Court, disposed of the Writ Appeal by passing the following order;

"This writ appeal is filed against the order passed by the learned Single Judge in W.P.No.22693 of 2010 dated 12.7.2012 wherein the appellant has prayed for the issuance of a writ of Mandamus directing the second and third respondents to register and return the document No.P.200800019 dated 27.3.2008 bearing Receipt No.738 to the petitioner without insisting upon any No Objection Certificate".

2. The appellant has purchased only a superstructure which was put up on the land owned by Arulmighu Parthasarathy Temple, Triplicane. The grievance of the appellant is that she is having right over the superstructure, for which a document is sought to be registered, without any claim over the land owned by the temple and the registering authority is insisting to get 'No Objection' from the temple for registration.

3. The same issue was considered by the Honourable Apex Court in State of Rajasthan and others Vs. Basant Nahata reported in 2005 (4) CT 606 which was followed by the Division Bench of this Court in W.A.No.1923 of 2005 dated 16.11.2005 and various orders were passed by this Court to register the document presented for registration of the superstructure alone, without

insisting for "No Objection Certificate" from the temple authorities.

4. The appellant also filed an affidavit of undertaking before this court stating that she will not claim any lease hold right based on the document, if registered. The undertaking given by the appellant is to make necessary correction in the sale deed only for superstructure. The said undertaking in the memo filed by the learned counsel for the appellant is recorded. Following the above said Judgement, we allow the writ appeal with a direction to the third respondent to register the document presented by the appellant without insisting for "No Objection Certificate" from the temple authority. We make it clear that this order shall not be treated as conferring title to the appellant in any further proceedings. No costs."

6. In the light of the above, following the order passed by this Court, there will be a direction to the 1st respondent to release the document in question without insisting upon No Objection Certificate from the respondent temple and it is made clear that this order shall not be treated as confer title on the petitioner in any further proceedings. The above direction shall be complied within a period of eight weeks from the date of receipt of a copy of this order.

7. The Writ Petition is disposed of with the above direction. No costs. Consequently, the connected M.P.No.1 of 2014 is closed.

Sd/-

Asst. Registrar

/true copy/

Sub Asst. Registrar.

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To

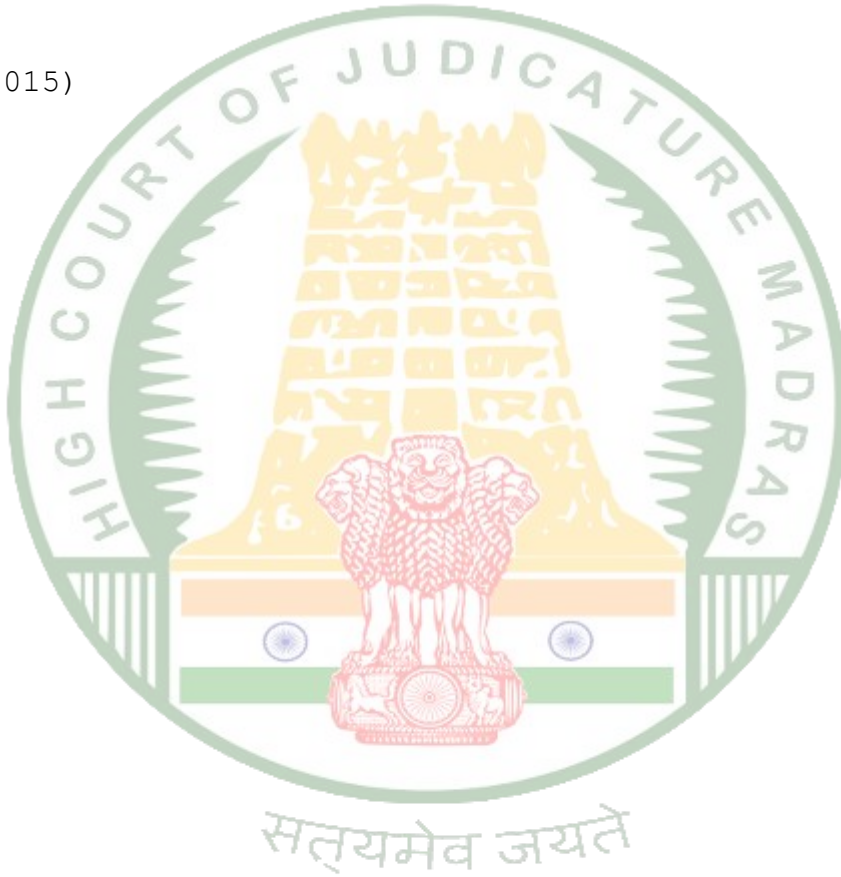
The Sub Registrar,
Sowcarpet,
Davidson Street,
Chennai 600 001.

+1cc to Mr.S.P.Meenakshi Sundaran, Advocate, S.R.No.8489

+1cc to Mr.Ravichandran Sundaresan, Advocate, S.R.No.8085

W.P.No.23459 of 2013

RSJ(CO)
CA(27/02/2015)



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