BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.11.2015**

CORAM:

THE HONOURABLE MR.JUSTICE **K.RAVICHANDRA BAABU**

W.P.(MD)No.5250 of 2013

M.Gurunathan : Petitioner

Vs.

1.The Sub-Registrar,
Sub-Registration Office,
Annavasal, Pudukkottai District.

2.The Executive Officer,
Marimuthu Swamigal Madam,
Thirukkokarnam, Pudukkottai District. : Respondents
[R-2 suo motu impleaded vide court order
dated 10.06.2013 in W.P.[MD].No.5250 of 2013].

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the respondent dated 16.08.2012 and quash the same as illegal and further direct him to register the document relating to Marimuthu Swamigal Madam's property in Survey No.232/1 at Mathiyanallur Village, Iluppur Taluk, Pudukkottai District, in the light of the Judgment in 2007 (3) CTC 513.

For Petitioner : Mr.Mohammed Imran
For Mr.V.Sankaranarayanan

For Respondent No.1 : Mr.S.Kumar
Additional Government Pleader

ORDER

The petitioner is aggrieved against the order passed by the first respondent dated 16.08.2012, wherein and whereby the first respondent refused to register the document by quoting Section 22-A of the Registration Act, 1908 [as amended by the State of Tamil Nadu vide Registration [Tamil Nadu Amendment] Act, 1994 and G.O.Ms.No.150 of 2000, Commercial Tax Department, dated 22.09.2000.

2. The learned counsel appearing for the petitioner submitted that the reasons stated in the impugned order cannot be sustained, in view of the fact that such reasons are no more available to the first respondent, as the above provision of law and the said Government Order were declared as unconstitutional and ultra vires against Articles 14 and 246 of the Constitution of India. He invited the attention of this Court to the decision made by a Division Bench of this Court in **Capton Dr.R.Bellie Vs. The Sub-Registrar**, reported in

2007 (3) CTC 513, in support of the said submission. Paragraph No.9 of the said decision reads as follows:-

> "9. It has already been pointed out that the legislatures' of the State has not laid down defining 'public policy' or documents which are ás opposed to public policy'. The provision was made vide G.O.Ms.No.150, Commercial Tax Department, dated 22.09.2000, as quoted above, has also been set aside by this Court vide Judgment dated 20.03.2006 in W.P.No.7237 of 2006. In view of the aforesaid fact, following the ratio laid down by the Supreme Court in the case of Basant Nahata [supra] we also declare the amended provision of Section 22-A as made vide Registration [Tamil Nadu Amendment] Act, 1994, unconstitutional and ultra vires Articles 14 and 246 of the Constitution of India".

3. Mr.S.Kumar, the learned Additional Government Pleader appearing for the first respondent fairly submitted that the issue involved in this Writ Petition is squarely covered by the said decision in favour of the petitioner.

4. Considering the above stated facts and circumstances of the case and in view of the undisputed fact that the issue involved in this Writ Petition is squarely covered by the decision of the Division Bench of this Court, the impugned order dated 16.08.2012 passed by the first respondent is set aside and consequently, the Writ Petition is allowed. The first respondent is directed to register the document, referred to in the Writ Petition, if there is no other legal impediment, within a period of four weeks from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(C.S. -II)

/True Copy/

Sub Assistant Registrar

To

1.The Sub-Registrar, Sub-Registration Office,
Annavasal, Pudukkottai District.

2.The Executive Officer, Marimuthu Swamigal Madam,
Thirukkokarnam, Pudukkottai District.

+1cc to The Special Government Pleader Sr.No.65741

akm/24.11.2015 /2p-4c/

ORDER MADE IN
W.P.(MD)No.5250 of 2013