



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.12.2016

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE M.S.RAMESH

Writ Petition (MD) No.15596 of 2013

and

M.P(MD)No.1 of 2013

K.Subramanian

... Petitioner

Vs.

1.The Joint Sub Registrar No.1,
Kumbakonam,
Thanjavur District.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment
Myladuthurai.

3.Sri Kasi Viswanatha Senkaluneer Vinayagar Temple,
Mettu Street, Kumbakonam, which was managed
and which was under the control of Sri Kanchi Kamakodi
Peedam Jagathguru Sankarachariar Swamigal Madam,
1, Salai Street, Kanchipuram, Kanchipuram District.
(R2 and R3 impleaded as per order dated 08.09.2016
made in W.M.P(MD)No.9305 of 2016) ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondent in No. Mu.Pa.33/2012 dated 2-4-2012 and quash the same as illegal arbitrary and unenforceable consequently direct the respondent to register and release the sale deed of petitioner dated 31-12-2011 within a time to be stipulated by this Court.

For Petitioner	: Mr.M.R.S.Prabhu
For Respondents 1&2	: Mr.T.R.Janarthanam, Additional Government Pleader.
For 3 rd Respondent	: Mr.S.Parthasarathy

ORDER

The petitioner had purchased two items of properties in Survey Nos.782 and 784 from Kanchi Mutt. When the sale deed dated 02.04.2012 was presented to the first respondent, the Sub Registrar had sought for no objection certificate from the HR & CE Department for registration. Aggrieved against the same, the petitioner is before this Court.



2. Heard Mr.R.S.Prabhu, learned counsel appearing for the petitioner, Mr.T.R.Janarthanam, learned Additional Government Pleader appearing for the respondents 1 and 2 and Mr.S.Parthasarathy, learned counsel appearing for the third respondent.

WEB COPY 3. The only ground on which the first respondent has refused to register the document is that the petitioner has not produced no objection certificate obtained from the HR & CE Department. In this regard, it is pointed out that originally, Section 22-A of the Registration Act, 1908 prohibits registration of sale deed belonging to any religious institutions and subsequently, Section 22-A of the Act was struck down by the Hon'ble Supreme Court in the case of **State of Rajasthan and others Vs. Basant Nahata** reported in **2005 (4) CTC 606**. Following the judgment of the Hon'ble Supreme Court, this Court in several cases have held that the Registration Department cannot insist for no objection certificate from the HR & CE Department whenever a sale deed is presented for registration pertaining to the temple lands being purchased. As such, the first respondent cannot withhold the registration and is bound to release the same without insisting for no objection certificate.

4. Under such circumstances, the impugned proceedings of the first respondent dated 02.04.2012 is quashed. Consequently, the first respondent is directed to register the document in Mu.Pa.No.33 of 2012 dated 02.04.2012, within a period of four weeks from the date of receipt of a copy of this order.

5. The writ petition stands allowed accordingly. No costs. Consequently, M.P(MD)No.1 of 2013 is closed.

Sd/-

Assistant Registrar (Crl.Side)

/True Copy/

Sub Assistant Registrar

sms

To

1. The Joint Sub Registrar No.1, Kumbakonam,
Thanjavur District.

2. The Joint Commissioner,
Hindu Religious and Charitable Endowment
Myladuthurai.

+1CC to Mr.M.R.S.Prabhu, Advocate Sr.No.81442

+1CC to Mr.S.Parthasarathy, Advocate Sr.No.80687

+1CC to Spl.Government Pleader Sr.No.80867

GJM/SKN/23.12.16-2p-6C

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