

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2017

CORAM

THE HONOURABLE MR. JUSTICE M.DURAI SWAMY

W.P.No.15789 of 2017

V. Thirunavukkarasu

... Petitioner

v.

1. The Commissioner,
Hindu and Religious and Charitable
Endowment Department,
Uthamar Gandhi Salai,
Nungambakkam, Chennai.

2. The Sub Registrar,
O/o The Sub-Registrar,
Dharapuram,
Tiruppur District.

3. The Executive Officer,
A/m. Bagavathiamman Temple,
Dharapuram Taluk,
Tiruppur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus, directing the 2nd respondent herein for registering the settlement deed pertaining to the 0.56 1/4 cents of land and buildings attached there to, comprised in 51/1A corresponding to old S.F.No.60A1, Nanjiyampalayam Village, Dharapuram Taluk, when its presented for registration.

For Petitioner : Mr.Naveen Kumar Murthi
for Mr.V.P.K.Gowtham

For Respondents: Mr.Maharaja,
Special Government Pleader (R1 & R3)

Mr.A.N.Thambidurai,
Special Government Pleader (R2)

O R D E R

The petitioner has filed the above writ petition to issue a writ of Mandamus, directing the 2nd respondent to register the settlement deed pertaining to an extent of 0.56 1/4 cents of land and buildings attached there to, comprised in Survey No.51/1A corresponding to old S.F.No.60A1, Nanjiyampalayam Village, Dharapuram Taluk, when it is presented for registration.

2. It is the case of the petitioner that one R.Sadhasivam had mortgaged the property to the Tamil Nadu Industrial Investment Corporation and since he failed to repay the loan, the property was brought to sale. The petitioner was the successful bidder and sale deed was executed and registered in his favour on 16.03.2005. The possession was also handed over to the petitioner on 05.03.2005. Subsequently, the petitioner wanted to settle the said property in favour of his wife T.Padmavathy and when the petitioner went to the office of the 2nd respondent for registration, the 2nd respondent refused to register the document orally stating that the said land in survey No.51/1A corresponding to old S.No.60A1, belongs to the 3rd respondent temple and had insisted for a No Objection Certificate from the 1st respondent. In these circumstances, the petitioner has filed the writ petition.

3. In similar circumstances, the Division Bench of this Court in an unreported Judgment dated 05.04.2017 made in W.P.Nos.30589 of 2013 etc. batch held as follows:-

25.(i) The registering authority before whom the document has been presented shall cause service of notice on the parties to the deeds and also to the objector / religious institution, hold summary enquiry, hear the parties and then either register or refuse to register the document by passing an order having regard to the relevant facts...."

4. The learned counsel appearing for the petitioner also relied upon an unreported Judgment dated 01.12.2016 made in W.P.No.42142 of 2016, wherein, this Court directed the Sub Registrar to consider the request of the petitioner therein for registering the document, after giving opportunity to the 3rd respondent therein.

5. Learned counsel on either side submitted that in view of the orders passed by this Court, the 2nd respondent may be directed to issue notice to the 3rd respondent herein prior to taking decision with regard to registration or refusal of the document and thereafter pass orders in accordance with law.

6. In view of the submissions made by learned counsel on either side, following the order passed by the Division Bench of this Court, I direct the 2nd respondent to issue notice to the 3rd respondent temple and after giving an opportunity of hearing to both sides, pass orders in accordance with law with regard to the registration or refusal of document. In the case of the petitioner presenting the document for registration, the respondent shall pass orders, after giving notice to the 3rd respondent, within a period of eight weeks from the date of presentation of the document.

7. With these observations, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rsi/rg

To

1. The Commissioner,
Hindu and Religious and Charitable
Endowment Department,
Uthamar Gandhi Salai,
Nungambakkam, Chennai.
2. The Sub Registrar,
O/o The Sub-Registrar,
Dharapuram,
Tiruppur District. सत्यमेव जयते
3. The Executive Officer,
A/m. Bagavathiamman Temple,
Dharapuram Taluk,
Tiruppur District.

+1cc to Mr.V.P.K.Gowthaman, Advocate Sr.45410
+1cc to the Government Pleader Sr.45726

W.P.No.15789 of 2017

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srg 07/07/2017