

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.06.2017

CORAM

THE HON'BLE Mr. JUSTICE M.DURAI SWAMY

W.P.Nos.39123 of 2016, 23756 of 2015,
28797 & 28798 of 2016, 9643 of 2015,
8984 of 2014

and

M.P.Nos.1 to 3 in W.P.No.23756 of 2016,
W.M.P.Nos.24838, 24839, 24840 & 24841 of 2016 in
W.P.Nos.28797 & 28798 of 2016,
M.P.Nos.1 to 3 in W.P.No.9643 of 2015
M.P.Nos.1 to 3 of 2014 in W.P.No.8984 of 2014

V.A.Thirumagal ... Petitioner in W.P.Nos.39123 of 2016

- 1 R.Senthil Ganesh
- 2 Dr.B.Lakshmi Shanthi
- 3 K.Muthusamy
- 4 M.Jayalakshmi
- 5 S.Anton Jeromenath
- 6 J.Bernadetter Mallika
- 7 Praveen Goel
- 8 Charu Goel W/o.Parveen Goel
- 9 Puthukulangara Rudran.M
- 10 Erakkath Ambika Rudran.F

... Petitioner in W.P.No.23756 of 2015

- 1 P.Kanagaraj
- 2 A.Selvam
- 3 K.S.Rani
- 4 S.P.Loghu

Petitioners are represented by their
Power of Attorney J.Annalakshmi

... Petitioner in W.P.No.28797 of 2016

M.Govindan ... Petitioner in W.P.No.28798 of 2016

- 1 V.R.Sethuraman
- 2 V.Varunraj
- 3 N.R.Subramanyam

4 Suresh Kumar
5 K.P.Ramakrishnan

... Petitioner in W.P.No.9643 of 2015

V.Suresh ... Petitioner in W.P.No.8984 of 2014

Vs.

- 1.The Secretary to Government,
Hindu Religious and Charitable
Endowment Department,
Fort St.George, Chennai - 600 009.
- 2.The Assistant Commissioner,
O/o Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Coimbatore - 641 018.
- 3.The Sub Registrar,
Annur Sub Registration Office, Coimbatore.
- 4.The Sub Registrar,
Singanallur Sub Registration Office,
Singanallur, Coimbatore.

... Respondents in W.P.Nos.39123 of 2016

(R2 amended as per order dated 10.04.2017 made in W.M.P.No.1501
of 2017 in W.P.No.39123 of 2016)

- 1 The Commissioner
Hindu Religious and
Charitable Endowment Dept
Nungambakkam Chennai - 34
- 2 The Assist Commissioner of
Temples Office of the Hindu Religious &
Charitable Endowment Rajaveedhi Coimbatore
- 3 The District Registrar
Office of Registration Collector office
Compound State Bank St Coimbatore - 641018

- 4 The Joint Sub Registrar II
Office of the Joint Sub Registrar II
Coimbatore Coimbatore Dt
... Respondent in W.P.No.23756 of 2015,
9643 of 2015 & 8984 of 2014
- 1 The Assistant Commissioner
HR & CE Department 1st Floor Ex-service
Man Buildings Gandhiji Road Erode-4.
- 2 The Inspector
HR & CE Department 1st Floor Ex-service
Man Buildings Gandhiji Road Erode-4.
- 3 The Sub-Registrar
The Sub-Registrar Office Bhavani Taluk
Erode District. ... Respondent in W.P.Nos.28797 &
28798 of 2016

These Writ Petitions are filed under Article 226 of The Constitution of India praying to issue a writ of certiorarified mandamus

(i)calling for the records pertaining to the proceedings of the 2nd respondent dated 03.10.2013 in Na.No.5514/2012/A7 and quash the same and consequently direct the 4th respondent to duly register the Mortgage Deed dated 28.03.2014 pending on his file in P.No.40/2014 in a time bound manner (W.P.Nos.39123 of 2016).

(ii)Calling for the records from the 2nd Respondent and quash the letter Na.Ka.No. 5196 / 2011 / A7 dt.22.11.2011 sent by the 2nd Respondent The Assistant Commissioner of temples Hindu Religious & Charitable Endowment Coimbatore and consequently direct the 3rd Respondent herein ie The District Registrar Office of Registration Collector Office Compound State Bank Street Coimbatore 641018 and 4th Respondent i.e.The Joint Sub Registrar II Office of the Joint Sub Registrar II Coimbatore to register the Sale Deed presented by the Petitioner the property situate at S.F.Nos. 384 / 1 E2 and 384 / 2B - 0.86 1/4 cents thelungupalayam village Coimbatore Flat Nos. (1) 102 (2) 303 (3) 405 (4) 407 (5) 412 pertaining to the Writ Petitioners 1 to 10 respectively, springfield vestal, No.3, New Rams Nagar Extension Behind Bimetal Bearings P.N.Pudur Post, Coimbatore and Flat Nos.(1) 304(2)314(3)315(4)316 & (5)403 Pertaining to the petitioners, 1 to 5 respectively, Springfield vestal, No.3 New Rams Nagar Extension behing Bimetal P.N.Pudur Post Coimbatore respectively (in W.P.Nos.23756/15 & 9643/15)

(iii)calling for the records pertaining to the impugned objection of the 2nd respondent dated 09.07.2015 passed in Na.Ka. No.66/2015 and quash the same and further direct the 3rd respondent to register any document presented in respect of survey numbers 690/2I 690/2D 690/2E 690/2J 690/2H in Bhavani Village Bhavani Taluk Erode District without reference to the impugned communication of the 2nd respondent dated 09.07.2015(in W.P.Nos.28797 & 28798 of 2016)

(iv)calling for the records from the 2nd respondent and quash the letter Na. Ka. No.5196/2011/A7 dated 22.11.2011 sent by the 2nd respondent The Assistant Commissioner of Temples Hindu Religious & Charitable Endowment Coimbatore and consequentially direct the 3rd Respondent herein is The District Registrar Office of Registration Collector office Compound State Bank Street Coimbatore 641018 and 4th respondent i.e. The Joint Sub Registrar II Office of the Joint Sub Registrar II Coimbatore to register the Sale Deed presented by the petitioner the property situate at S.F.Nos. 384/1 E2 and 384/2B- 0.86 1/4 cents Thelungupalayam Village Coimbatore Flat No.103 Springfield Vestal No.3 New Rams Nagar, Extension Behind Bimetal Bearings, P.N.Pudur Post, Coimbatore.(in W.P.No.8984 of 2014)

For Petitioner : Ms.V.S.Usha Rani
(in W.P.No.39123 of 2016,
28797, 28798 of 2016)

For Respondents : Mr.M.Maharaja,
Special Government Pleader
(HR & CE) (R1 & R2)
(in all)

Mr.A.N.Thambidurai,
Special Government Pleader (R3 & R4)

C O M M O N O R D E R

Since the issue involved in all these Writ Petitions are one and the same, all the Writ Petitions are disposed of by this common order.

2.The petitioner has filed the above Writ Petition to issue a writ of certiorarified mandamus calling for the records pertaining to the proceedings of the 2nd respondent dated 03.10.2013 and to quash the same and consequently, direct the 4th respondent to register the Mortgage Deed dated 28.03.2014 in a time bound manner.

3.Heard the respective learned counsels appearing for the petitioners, Mr.M.Maharaja, learned Special Government Pleader (HR & CE) appearing for the respondents 1 & 2 and Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 3 & 4.

4.When the matter is taken up for hearing, the learned counsel on either side submitted that the issue involved in the above Writ Petitions are covered by the decision of a Division Bench of this Court dated 05.04.2017 made in W.P.No.30589 of 2013 etc batch.

5.The Division Bench of this Court, in the said Writ Petitions has held as follows:

"...

25.In view of the above discussions, all the writ petitions are allowed and the impugned orders are set aside with the following directions:

- 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 as indicated above.
- ii.If the registering authority, refuses to register any document by accepting the objections raised under Section 22-A of the Registration Act, the aggrieved may file a statutory appeal under the Act.
- iii.If the objections raised under Section 22-A of the Act by the religious institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a writ petition seeking cancellation of the registration or for any other relief or to approach the civil Court for declaration of the title and for other consequential reliefs.
- iv.If the registering authority refuses to register the document acting on the objections raised by a religious institution under Section 22-A of the Registration Act, the parties to the deed will be at liberty to straightaway approach the Civil Court for declaration of title and other relief without availing the opportunity for filing a statutory appeal.

- v. We further direct that if the deed has already been registered without there being any objection by the religious institution under Section 22-A of the Act, the document shall be returned to the parties concerned leaving it open for the religious institution to approach either the High Court under Article 226 of the Constitution of India or the Civil Court for appropriate relief as indicated above. At any rate, the registering authority shall not withhold the deed which has already been registered.
- vi. Consequently the connected miscellaneous petitions are closed. No costs."

6. Since the above Writ Petitions are covered by the order passed by the Division Bench of this Court, following the said order, all the Writ Petitions are allowed and the impugned orders are set aside with the following directions:

(a) 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 as indicated above.

(b) If the registering authority, refuses to register any document by accepting the objections raised under Section 22-A of the Registration Act, the aggrieved may file a statutory appeal under the Act.

(c) If the objections raised under Section 22-A of the Act by the religious institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a writ petition seeking cancellation of the registration or for any other relief or to approach the civil Court for declaration of the title and for other consequential reliefs.

(d) If the registering authority refuses to register the document acting on the objections raised by a religious institution under Section 22-A of the Registration Act, the parties to the deed will be at liberty to straightaway approach the Civil Court for declaration of title and other relief without availing the opportunity for filing a statutory appeal.

(e) I further direct that if the deed has already been registered without there being any objection by the religious institution under Section 22-A of the Act, the document shall be returned to the parties concerned leaving it open for the religious institution to approach either the High Court under Article 226 of the Constitution of India or the Civil Court for appropriate relief as indicated above. At any rate, the registering authority shall not withhold the deed which has already been registered.

No costs. Consequently the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

va
To

1.The Secretary to Government,
Hindu Religious and Charitable
Endowment Department,
Fort St.George, Chennai - 600 009.

2.The Assistant Commissioner,
O/o Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Coimbatore - 641 018.

3.The Sub Registrar,
Annur Sub Registration Office,
Coimbatore.

4.The Sub Registrar,
Singanallur Sub Registration Office,
Singanallur, Coimbatore.

- 5 The Commissioner
Hindu Religious and
Charitable Endowment Dept
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- 6 The Assist Commissioner of
Temples Office of the Hindu Religious &
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- 10 The Inspector
HR & CE Department 1st Floor Ex-service
Man Buildings Gandhiji Road Erode-4.
- 11 The Sub-Registrar
The Sub-Registrar Office Bhavani Taluk
Erode District.

+3cc to M/S.V.S.Usha Rani, Advocate Sr.44091, 44092 & 44093
+1cc to Mr.G.Saravanakumar, Advocate Sr.44493
+1cc to the Government Pleader Sr.44545

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W.P.Nos.28797 & 28798 of 2016,
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M.P.Nos.1 to 3 of 2014 in W.P.No.8984 of 2014

rv[co]
srg 14/07/2017