

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2017

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.36994 of 2003

D.Venkateswaran

... Petitioner

Vs.

1.The District Registrar,
Thiruchirapalli.

2.The Sub Registrar,
Srirangam, Sub Registrar's Office,
Srirangam, Tiruchi - 6.

3.The Idol of Arulmighu Sri
Ranganathar Temple,
Rep. by the Executive Officer,
Srirangam. ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the second respondent relating to his letter No.489/03 dated 27.10.2003, quash the same, and direct him to register the Sale Deed dated 08.09.2003 presented by the petitioner relating to the undivided share of land measuring 201.95 square feet in T.S.Nos.1781/1 and 1784/B2 in Block 32, Srirangam Municipal Ward 2, Gandhi Road North side, Srinivasanagar Extension, Vellithirumutham Village, Srirangam Sub District, Tiruchi Registration District.

For Petitioner : M/s.R.Meenal

For Respondents : Mr.Akhil Akbar Ali (For R1 & R2)
Government Advocate
Mr.K.Govindaraj for
M/s.Sarvabhauman Associates (For R3)

O R D E R

The petitioner has filed this writ petition call for the records of the second respondent relating to his letter No.489/03 dated 27.10.2003, quash the same, and direct him to register the Sale Deed dated 08.09.2003 presented by the

petitioner relating to the undivided share of land measuring 201.95 square feet in T.S.Nos.1781/1 and 1784/B2 in Block 32, Srirangam Municipal Ward 2, Gandhi Road North side, Srinivasanagar Extension, Vellithirumutham Village, Srirangam Sub District, Tiruchi Registration District.

2.The petitioner has submitted that he has purchased 1/24 undivided share of the land to an extent of 201.95 square feet out of 4847 square feet for valuable consideration. He submitted that the land belongs to him and that the petitioner has scrutinized the document with regard to previous ownership of the property in question. Finally, the document was presented for registration. When the document was presented for registration, there was an objection by the Temple authorities viz. the third respondent and it was stated that the document could not be registered. According to the petitioner, number of Sale Deeds have been registered, but there is no reason for non registering the document presented by the petitioner. Aggrieved by the decision of the authority dated 08.09.2003, the petitioner filed an appeal under Section 72 of the Registration Act and the same was returned on 01.10.2003, stating that the Sub-Registrar has not passed an order of refusal and that no appeal will lie under Section 42 of the Act, unless an order of refusal is there and after getting adverse order, an appeal could be preferred.

3.The learned counsel for the petitioner submitted that the second respondent's action in not registering the document and returning it by sending notification dated 27.10.2003, asking the petitioner to get 'no objection certificate' from the Temple authorities, is beyond his powers and refusal to register the document is arbitrary and illegal. He further stated that when the documents are presented, the second respondent has no authority for conducting a roving enquiry and his role is very limited. He should have given reasons for refusing to register the document and ought to have registered the document without raising unnecessary queries. Without jurisdiction, the second respondent asked the petitioner to get 'no objection certificate' and that the petitioner has scrutinized the documents from various vendors for seven decades and taking note of the ownership, document had been presented for registration. Since the action of the second respondent dated 27.10.2003 is illegal, the same has got to be interfered with. The Sale Deed presented by the petitioner dated 08.09.2003 is with regard to the undivided share of the land measuring 201.95 square feet in T.S.Nos.1781/1 and 1784/B2 in Block 32, Srirangam Municipal Ward 2, Gandhi Road North side, Srinivasanagar Extension.

4.The learned counsel appearing for the third respondent would submit that the property belongs to the Temple and that in

terms of G.O.(Ms) No.150, Commercial Taxes Department, dated 22.09.2000, any conveyance of deed of property belonging to the Hindu Religious and Charitable Endowment should be registered. Even though Section 22-A of the Registration Act was held to be a bar under the registration proceedings by the Apex Court, the Government of Tamil Nadu has re-introduced Section 22-A wherein, the Government of Tamil Nadu has declared that any conveyance of the property belonging to a religious institution is opposed to public policy. The third respondent further submitted that there was no rejection or refusal of action in the Sale Deed dated 08.09.2003, but the petitioner was directed to get no objection from the third respondent. The second respondent issued a check slip on the same day, refusing to register the document. The petitioner was asked to present the document after due compliance. This fact has been admitted by the petitioner and though the property belongs to the Temple 'no objection certificate' was not issued by the third respondent. It is submitted that already a civil dispute is pending between the parties and that has not attained any finality and that the civil suit pertains to recovery of property and not with regard to title of the property.

5. Heard both parties and perused the materials available on record.

6. Even though the Sale Deed had been prepared, executed and presented for registration, the Sub Registrar was right in asking for 'no objection certificate' from the Temple, as there was objection by the Temple authorities. Apart from that, it is the contention of the third respondent that the property belongs to the Temple. Even after registration, if the authority concerned refuses to return the document on the ground that the property belongs to someone else, the real owner may file a suit to set aside the document. That is not the case here. In the present case document had been presented which has not been registered. The learned counsel for the third respondent referred to a judgment of this Court wherein this Court held that there is no hard and fast rule in taking objection and that the authorities are empowered to ask 'no objection certificate'.

7. A Division Bench of this Court in the case of M.Muthaiah Vs. The State of Tamil Nadu and others in W.A.(MD)No.295 of 2009 dated 20.07.2009 held as follows:

"3. Admittedly, the Inam Abolition Tribunal, Tiruchirapalli, (Principal Sub-Court), had finally determined the rights of the Temple vis-a-vis persons like the appellant herein in C.M.A.No.31 of 1981 by a judgment, dated 30.11.1998. As per the judgment, the third respondent Temple has been held to be the owner of

the land, over which the appellant claims to have constructed a superstructure. The appellant did not challenge the judgment of the Inam Abolition Tribunal. Therefore, the finding of the Tribunal has attained finality.

4. De hors the finding of the Tribunal which has attained finality, the appellant came up with a writ petition in W.P.(MD)No.860 of 2005 seeking a writ of mandamus to direct the Sub-Registrar, Srirangam, to receive and register any documents presented by him for registration.

9. Moreover, the appellant himself sought permission from the Joint Commissioner, HR & CE for the purchase of the land. Under Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowment Act, a property belonging to the Temple cannot be sold without prior permission of the Commissioner. Having sought the permission of the Commissioner after accepting the order of the Tribunal, it is not open to the appellant to contend to the contra in the writ petition. Therefore, we see no merits in the writ appeal and the same is dismissed. No costs."

8. If the petitioner wants to get the document registered, he has to get 'no objection certificate' from the Temple. In this case, the third respondent wanted to include a part of the property as the property belongs to the temple.

9. Moreover, in view of the decision of the Madurai Bench of this Court in the case of S.Rangarajan Vs. the District Registrar and others (cited supra), this writ petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

abr

To

1. The District Registrar,
Thiruchirapalli.

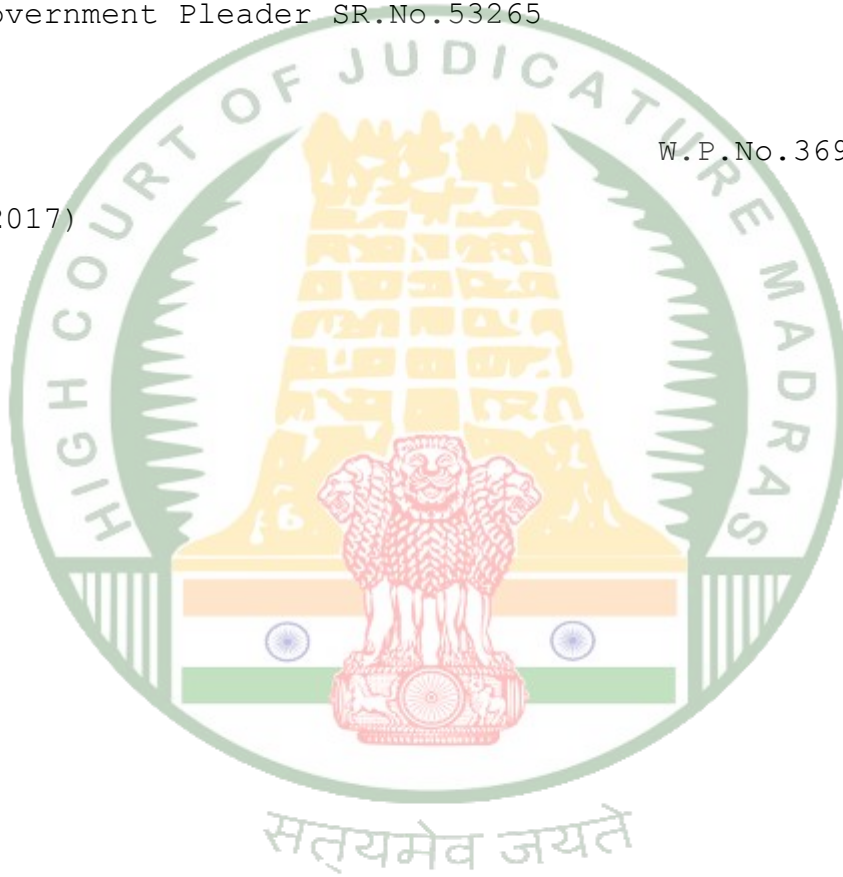
2.The Sub Registrar,
Srirangam, Sub Registrar's Office,
Srirangam, Tiruchi - 6.

3.The Executive Officer,
The Idol of Arulmighu Sri
Ranganathar Temple,
Srirangam.

+lcc to MR.R.Subramaninan, Advocate SR.No.52170
+lcc to MR.Sarvabhauman, Advocate SR.No.52059
+lcc to Government Pleader SR.No.53265

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GN(12/09/2017)



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