



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **24.07.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **R.MAHADEVAN**

W.P (MD) No.7890 of 2017

WEB COPY

S.Vijayakumar,
Managing Trustee,
M.A.S.Subbaiya Chettiar Educational &
Charitable Trust,
Kumbakonam Taluk,
Thanjavur - 612 501.

.. Petitioner

Vs.

1.The Secretary to Government,
Hindu Religious & Charitable Endowment,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.

2.The Commissioner,
Hindu Religious & Charitable Endowment
Department, Nungambakkam,
Chennai - 600 034.

3.The Joint Commissioner,
Hindu Religious & Charitable Endowment
Department, Sitharkadu, Mayiladuthurai,
Nagapattinam District - 609 001.

4.The Assistant Commissioner,
Hindu Religious & Charitable Endowment
Department, Thanjavur Main Road,
Kumbakonam, Thanjuavur District - 612 001.

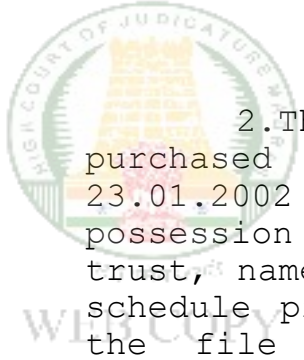
.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents herein to dispose of the petitioners representation dated 28.03.2017 requesting the first respondent to grant approval and the second respondent to accord permission for registration of exchange deed dated 12.08.2012 under the statue within a reasonable time as may be fixed by this Court.

For Petitioner	: Mrs.K.R.Shiva Shankari
For Respondents	: Mr.M.Alagathevan, Special Government Pleader.

ORDER

This writ petition is filed seeking a writ of Mandamus to direct the respondents 1 and 2 to grant approval and accord permission for registration of exchange deed based on the petitioner representation dated 28.03.2017, within the time stipulated by this Court.



2.The case of the petitioner is that the petitioner trust purchased a property by way of a registered sale deed dated 23.01.2002 vide Document No.62/2002 and the trust is in continuous possession and enjoyment of the same. Similarly, another private trust, namely, Devaraja Ayyanar Private Temple Trust, acquired 'B' schedule properties in a suit for partition in O.S.No.135/2001 on the file of the Sub Court, Kumbakonam, vide decree, dated 26.03.2002. Since, both the private trusts, for the sake of convenience and utility, have decided to exchange the above properties, entered into a deed of exchange, dated 12.08.2002 and on presentation of the said document for registration, the Sub Registrar, Thiruvidadaimaruthur, refused to register the same, stating that as per Section 34 of the Hindu Religious and Charitable Endowments Act, 1959, prior approval from the Government and also sanction from the Commissioner, Hindu Religious and Charitable Endowment Department, Chennai, are essential. Aggrieved over the same, the petitioner filed a writ petition and the same was dismissed, against which, a writ appeal was also filed and the same was also dismissed. On appeal, the Hon'ble Supreme Court dismissed the same, giving liberty to approach the appropriate forum. Since, the matter is pending for more than a decade, the petitioner requested the first respondent to accord approval and also the second respondent to grant sanction for registration of document, by way of representation, dated 28.03.2017. Since the same has not been considered, the petitioner is before this Court.

3.The fourth filed counter affidavit refuting the claim of the petitioner and prayed for the dismissal of this writ petition.

4.Today, when the matter is taken up for hearing, the learned counsel appearing for the petitioner confines his prayer only to direct that the representation dated 28.03.2017 be considered by the respondents 1 and 2, for which, the learned Special Government Pleader appearing for the respondents, has no serious objection.

5.Considering the limited scope of the relief sought for, this Court, without going into the merits of the petitioner's claim, directs the respondents 1 and 2 to consider the representation of the petitioner dated 28.03.2017, and pass appropriate orders on its own merit and in accordance with law, after affording due opportunity of hearing to the petitioner, within a period of six weeks from the date of receipt of a copy of this order. If any third party will be affected by the nature of the relief sought for by the petitioner or by any order to be passed, the authority shall hear such person to avoid the allegations of violation of principles of natural justice.

6.The writ petition is disposed of as above. No costs.

Sd/-

Assistant Registrar(A.E)



To

1. The Secretary to Government,
Hindu Religious & Charitable Endowment Department,
Government of Tamil Nadu,
Fort St. George, Chennai - 600 009.

2. The Commissioner,
Hindu Religious & Charitable Endowment
Department, Nungambakkam,
Chennai - 600 034.

3. The Joint Commissioner,
Hindu Religious & Charitable Endowment
Department, Sitharkadu, Mayiladuthurai,
Nagapattinam District - 609 001.

4. The Assistant Commissioner,
Hindu Religious & Charitable Endowment
Department, Thanjavur Main Road,
Kumbakonam, Thanjavur District - 612 001.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.67998
+1cc to Mr.S.SRINIVASA RAGHAVAN Advocate in SR. No.67252
SMN
JS/GT/SAR.2/2.8.2017/3P-7C

ORDER MADE IN
W.P(MD) No.7890 of 2017
24.07.2017