

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2018

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

Writ Petition No.10834 of 2017

Sekar

... Petitioner

Vs.

1.The Sub Registrar,
O/o.Sub Registrar,
Tiruvarur.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Thanjavur.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Tiruvarur.

4.Meenakshisundaram
Trustee, Govinda Madam @
Muganthanur Govinda Darmakartha Madam ... Respondents

Petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the first respondent to complete the registration process and release the document relating to incomplete document No.29/2012 pending on his file without insisting no objection certificate from the second respondent within a stipulated period.

For Petitioner : Mr.S.Sounthar
For R1 : Mr.V.Jayaprakash Narayanan,
SGP
For R2 & R3 : Mr.M.Maharaja, SGP (HR&CE)
For R4 : Mrs.T.Ananthi

O R D E R

The relief sought in this writ petition is to direct the first respondent to complete the registration process and release the document bearing No.29/2012 pending on his file, without insisting no objection certificate from the second

respondent, within a stipulated period to be fixed by this Court.

2. According to the petitioner, he executed an exchange deed in respect of his properties in S.Nos.148/2B and 174/6 and 174/7 situated at Aaikudi Village in favour of the fourth respondent on 31.07.2012 and presented the same for registration before the first respondent on 13.09.2012. However, the first respondent refused to register the said document and is keeping it as pending bearing No.29/2012, for want of no objection certificate from the second respondent. Further, the first respondent sent a communication bearing Na.Ka.No.240/2012 dated Nil.12.2012, to the second respondent to clarify as to whether the properties in question belong to the HR&CE department. Thereafter, there was no progress, with regard to the claim of the petitioner. Hence, this writ petition.

3. Today, when the matter is taken up for consideration, the learned counsel for the petitioner, the learned Special Government Pleaders appearing for the respondents 1 and 2 and 3 and the learned counsel for the fourth respondent jointly submitted that the issue involved herein has been elaborately dealt with by this Court in the case of Sudha Ravi Kumar and another Vs. The Special Commissioner & Commissioner, Hindu Religious and Charitable Endowments Department, Chennai 34 and others [2017 (3) CTC 134] and ultimately, it has been 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."

Therefore, the learned counsels prayed for a similar direction in this writ petition also.

4. Following the aforesaid decision and also taking note of the fact that the first respondent sought clarification from the second respondent with regard to the title of the properties in question in the year 2012 itself, this writ petition stands disposed of, directing the first respondent to hold enquiry, after issuing due notice to the petitioner, fourth respondent as well as any other interested parties and thereafter, pass appropriate orders, with regard to registration of the document bearing No.29/2012 pending on his file, on merits and in accordance with law. Such an exercise shall be completed within a period of three weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Sub Registrar,
O/o.Sub Registrar,
Tiruvarur.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Thanjavur.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Tiruvarur.

+1cc to Mr. S.Sounthar, Advocate, S.R.No. 64303

+1cc to Mr. T.Aananth, Advocate, S.R.No. 64310

+1cc to the Government Pleader, S.R.No. 64959

Writ Petition No.10834 of 2017

SPD (CO)
GN (30/10/2018)



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