

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.11.2018

CORAM

THE HON'BLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.10476 of 2018

and

W.M.P.Nos.12427 and 12428 of 2018

M.Lavanya

.. Petitioner

versus

- 1.The Commissioner,  
Office of the Deputy Commissioner HR & CE Department  
Nungambakkam High Road, Chennai.
- 2.Deputy Commissioner HR & CE Department,  
Office of the Deputy Commissioner HR & CE Department,  
Coimbatore District.
3. Arulmigu Madeswara Swamy Temple,  
At Kullichettupalayam,  
being represented by the Executive Officer HR & CE,  
Kullichettupalayam Village,  
Pollachi Taluk, Coimbatore District.
4. The Sub Registrar Negamam,  
Office of the Sub Registrar Negamam,  
Negamam Town,  
Pollachi Taluk, Coimbatore District. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the 2<sup>nd</sup> respondent pertaining to the orders bearing reference No.1250/2011/16/A7 dated 12/07/2012 in respect of the property being lands comprised in (I) Survey No.78/1C land of an extent of hectare 0.0 1.5 (acre 0.04 cents), (ii) Survey No.78/2A 3 land of an extent of hectare 0.0 3.0 (acre 0.07 cents) situated in Kullichettupalayam village, Pollachi Taluk, Coimbatore District and the consequential order passed by the 4<sup>th</sup> respondent in rejecting the request for registration of Settlement deed dated 11/07/2017 and quash the same and consequently direct the 4<sup>th</sup> respondent to effect registration of the Settlement Deed in respect of the aforesaid property at the instance of the petitioner.

For Petitioner : Mr.A.Palaniappan

For RR 1 to 3 : Mr.M.Maharaja  
Special Government Pleader (HR & CE)

For R4 : Mr.T.M.Pappiah  
Special Government Pleader

O R D E R

The petitioner claims to be the owner having purchased the property from the rightful title holder pursuant to the inam abolition proceeding, who had got valid Ryotwari patta.

2. Heard, Mr.A.Palaniappan, learned counsel appearing for the petitioner and Mr.M.Maharaja, learned Special Government Pleader (HR & CE) appearing for the respondents 1 to 3 and Mr.T.M.Pappiah, learned Special Government Pleader appearing for the fourth respondent.

3. Now the order challenged in the writ petition is passed by the fourth respondent rejecting the request for registration of the settlement deed dated 11.07.2017 on the ground that there is an objection from the respondents 1 to 3, Hindu Religious and Charitable Endowment Department claiming that the said lands belong to the Arulmigu Madeswara Swamy Temple.

4. As the impugned order demands no objection certificate from the HR & CE Department, the writ petition has been filed.

5. The issue involved in this writ petition is covered by a Division Bench judgment of this Court in Sudha Ravi Kumar V. The Special Commissioner and Commissioner, HR & CE, Chennai, 2017 3 CTC 135, wherein, the Division Bench had directed the registering authority to issue notice to the parties concerned and conduct an enquiry under Section 22-A of the Registration Act. In the said batch of Writ Petitions, i.e. in W.P.No.30589 of 2013, etc., by order dated 05.04.2017, the Division Bench directed as follows:

(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.

6. As there is a claim between the parties with respect to the title, the fourth respondent is directed to conduct an enquiry in a summary manner after issuing notice to all the parties concerned and also affording them an opportunity of personal hearing and pass appropriate orders on merits and in accordance with law. Such exercise shall be completed within a period of five weeks from the date of receipt of a copy of this order.

7. With the above directions, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS vi)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner,  
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Nungambakkam High Road, Chennai.
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Office of the Sub Registrar Negamam,  
Negamam Town,  
Pollachi Taluk, Coimbatore District.

+1 CC TO GOVERNMENT PLEADER SR.NO. 80109

+2cc to Mr.A.Palaniappan, Advocate SR.No.79450

W.P.No.10476 of 2018

and

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ASK(20/12/2018)

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