

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.14327 of 2014

and

M.P.No.2 of 2014

M.D.Sambath

..Petitioner

Vs

1.The Sub-registrar,
Registrar Office
Hosur-636 109.

2.Assistant Commissioner
Hindu Religious and Charitable Endowment Board
Dharmapuri-5.

.... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Certiorarified Mandamus, call for the records of the proceedings of the 2nd respondent in Na.Ka.2226/2011/A6 dated 09/09/2011 and quash the same as illegal and irregular and consequently the proceedings on the file of the 1st respondent dated 27.05.2014 and direct the 1st respondent to register the document presented on 27.05.2014.

For Petitioner :Mr.V.Lakshmi Narayanan

For R1 :Mr.E.Elumalai
Government Advocate

For R2 :Mr.M.Maharaja
Special Government Pleader
[For HR & CE]

WEB COPY
O R D E R

The learned counsel appearing on behalf of the writ petitioner as well as the learned Government Advocate appearing on behalf of the first respondent and the learned Special Government Pleader appearing on behalf of the second respondent jointly made a submission that the issues raised in the present writ petition had already been adjudicated and the Hon'ble Division Bench pronounced a judgment on 05.04.2017. The relevant

paragraph No.25 of the said judgment reported in (2017) 4 MLJ 445 is extracted hereunder:

"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 straightway 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 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."

2. In view of the above judgment the first respondent has to issue notice to all the parties concerned and thereafter, proceed with further action in accordance with law.

3. Accordingly, this writ petition stands disposed of. Consequently, the connected Miscellaneous Petition is closed. However, there is no order as to costs.

Sd/-
Assistant Registrar (CS II)

//True copy//

Sub Assistant Registrar

may

To

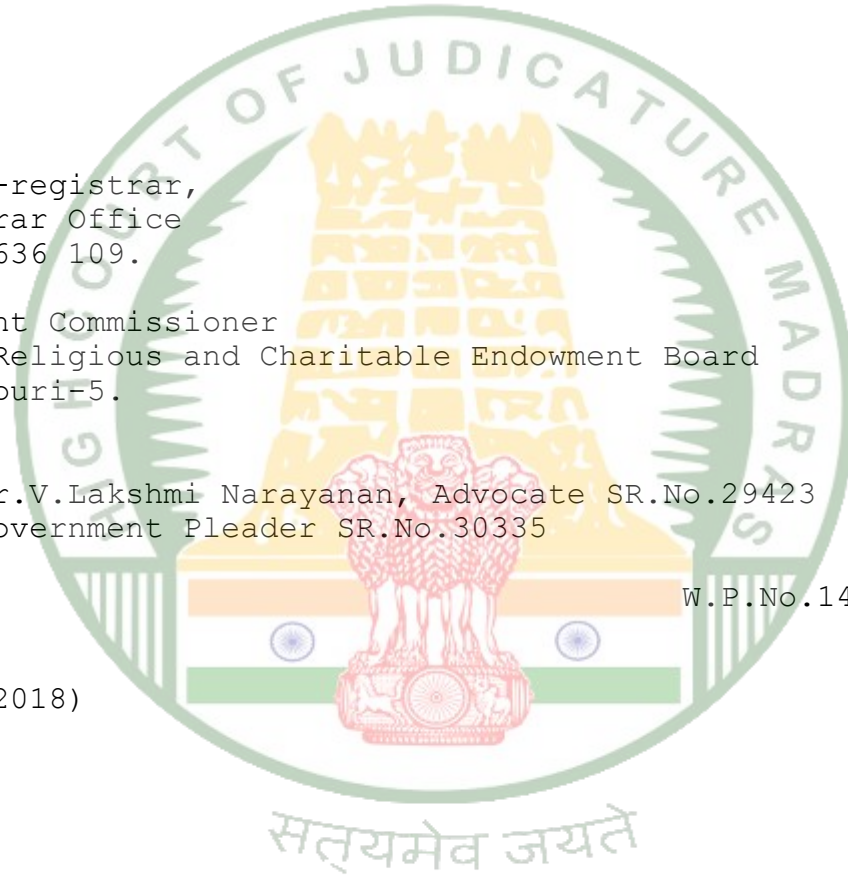
1. The Sub-registrar,
Registrar Office
Hosur-636 109.

2. Assistant Commissioner
Hindu Religious and Charitable Endowment Board
Dharmapuri-5.

+1cc to Mr. V. Lakshmi Narayanan, Advocate SR.No.29423
+1cc to Government Pleader SR.No.30335

W.P.No.14327 of 2014

AD (CO)
GN (16/05/2018)



WEB COPY