

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2018

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.22306 of 2018

and

W.M.P.Nos.26142 and 26143 of 2018

1. S.Subbathal
2. A.Shanthi
3. S.Padmavathi
4. S.Savithiri
5. G.Maragatham
6. V.Chitra ... Petitioner

Vs

1. The Inspector General of Registration
Santhome High Road
Pattinapakkam
Chennai-600 028.
2. The District Registrar
Tiruppur District.
3. The Joint Sub-Registrar-II
Tiruppur.
4. The Executive Officer
Arulmigu Visveswara Samy &
Veeraragava Perumal Temples
Easwaran Koil Street
Tiruppur-641 604. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the entire records of the third respondent which culminated in the notice affixed in the notice board of the office of the third respondent and quash the same in so far as it relates to Old Survey

No.200, Tiruppur Village alone and further direct the respondents 1 to 3 herein to admit and register documents such as Partition Deed, Release Deed, Sale Deed, Mortgage Deed etc., with respect to the petitioners' Patta lands comprised in T.S.No.N-9/29/1 measuring an extent of 0.1133.4 Sq.Mts. And T.S.No.N-9/29/5 measuring an extent of 0.0094.0 Sq.Mts. together with their right in T.S.No.N-9/29/3 measuring 0.0501.0 Sq.Mts being 20 feet private road (Old T.S.No.N-9/29/ corresponding to Old T.S.No.289/11, Block 10, Ward 4 and Old S.F.No.200) situated at Tiruppur Town, Tiruppur South Taluk, Tiruppur District.

For Petitioner : Mr.V.P.Sengottuvel

For R1 to R3 : Mr.T.M.Pappiah
Special Government Pleader

For R4 : Mr.M.Maharajan
Special Government Pleader

ORDER

The petitioners have come up with this writ petition challenging the notice of the third respondent and seek a direction to the respondents 1 to 3 to admit and register documents with respect to the petitioners' patta lands.

2.According to the learned counsel for the petitioners, one P.Subramaniam is the husband of the first petitioner and father of the petitioners 2 to 6 herein. He is one of the partners of M/s.Friends Knitting Company. They purchased lands comprised in T.S.No.289/11 vide sale deed dated 04.04.1986 from M/s.Tirupur Diary Farm. The said Subramaniam also purchased 989 sq.ft. in T.S.No.289/11 vide sale deed dated 04.04.1986. While so, the said Subramaniam died intestate on 30.03.2004 leaving the petitioners herein as his legal heirs. The Revenue Authorities of Tiruppur Taluk, on re-survey issued patta No.7747 for T.S.No.N-9/29 for an extent of 0.5150.4 Hectares jointly in the name of Jayalakshmi Udayarani, who is the vendor of M/s.Tiruppur Diary Farm, M/s.Friends Knitting company and others. The petitioners herein approached the office of the third respondent for registration of family partition deed/release deed among the family members and also for execution of the sale deeds. To their surprise and shock, the third respondent affixed notice on its office notice board stating that the documents, with respect to the lands corresponding to Old S.No.200, Tiruppur village, cannot be admitted for registration on the ground that one of the

said lands is belonging to the fourth respondent temple. They further informed that unless the fourth respondent issues No Objection Certificate or deletes S.F.No.200 from the list, they cannot register any document with respect to the said lands.

3.It is the contention of the learned counsel for the petitioners that the Registering Authority cannot refuse registration of a document with respect to the property covered by Ryotwari patta issued by the competent authority under the provisions of Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. In support of his contention, the learned counsel has placed reliance on the decision of this Court reported in 2017 (1) Writ Law Reporter 481 (Sudha Ravikumar vs. The Special Commissioner & Commissioner HR and CE, Chennai-34).

4.Heard the learned counsel for the petitioners as well as Mr.T.M.Pappiah, the learned Special Government Pleader for respondents 1 to 3 and Mr.M.Maharajan, the learned Special Government Pleader for fourth respondent.

5. The issue involved in the instant writ petition is with regard to the objections raised by the Registering Authority under Section 22-A of the Registration (Tamil Nadu Amendment) Act, 2008. The said issue was decided by the Division Bench of this Court in its decision reported in 2017 (1) Writ Law Reporter 481 (Sudha Ravikumar vs. The Special Commissioner & Commissioner HR and CE, Chennai-34), wherein paragraphs 24 and 25 are extracted hereunder:

"24. But this observation of ours shall not be construed that it is our conclusion that ryotwari patta issued to the ryot concerned is the final adjudication relating to the title for the property. We wish to clarify that the final adjudication regarding the title to the property can be had only before a Civil Court. We only say that at the time of registration of the deed, if any objection is made by the religious institution under Section 22-A of the Act, the registering authority shall issue notice afford opportunity to the parties, apply his mind and only from the materials available before him, if he is satisfied that the land belongs to the religious institution or given or endowed to the religious institution, then, he shall refuse to register such deed.

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 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. "

6.The above decision squarely applies to this case. In view of the above, considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court directs the petitioners to present the document for registration before the third respondent and if required, the Registering Authority, the third respondent herein shall conduct an enquiry by providing opportunity of hearing to both the parties and thereafter, arrive at a conclusion for registration of document by following the directions laid down in the decision of the Division Bench of this Court cited supra.

7.Accordingly, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS)
kj
//True Copy//
Sub Assistant Registrar

To

1. The Inspector General of Registration
Santhome High Road
Pattinapakkam Chennai-600 028.
2. The District Registrar
Tiruppur District.
3. The Joint Sub-Registrar-II
Tiruppur.

+3cc to Mr.V.SENGOTTUVEL , Advocate SR.No. 60513
+1 CC TO SPECIAL GOVERNMENT PLEADER SR.NO. 66726
+1 CC TO GOVERNMENT PLEADER SR.NO. 67094

W.P.No.22306 of 2018
and W.M.P.Nos.26142 and 26143 of 2018

nr (26/10/2018)