

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No. 8272 of 2013

M.P.No. 1 of 2013

S.Ramaiah

... Petitioner

vs.

1. The Commissioner,
Hindu Religious and Charitable Endowment,
(Admn) dept.
Nungambakkam,
Chennai - 34.

2. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
(Admn) dept.
Tirunelveli - 2..

3. The Executive Officer,
Arulmigu Porunthi Nindra Perumal Temple,
Tenkasi, Tirunelveli District.

... Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorary calling for the records relating to the impugned order passed by the Commissioner, Hindu Religious and Charitable Endowment, (ADMN) Hindu Religious and Charitable Endowment, (ADMN) DEPT, Chennai passed in S.M.R.No.1 of 2009 D2 dated 20.04.2012 and to quash the same as illegal.

For Petitioner : Mr. W.C.Sridhar

For Respondents: 1. Mr.M.Maharaja,
Special Government Pleader,
(HR&CE) for R1 & R2
2. No appearance for R3

O R D E R

The writ of Certiorari is filed questioning the validity of the order passed by the Commissioner, H.R. & C.E (ADMIN) Dept in S.M.R.No.1 of 2009 D2 dated 20.04.2012 in respect of initiation of Suo Moto revision.

2. The learned counsel appearing on behalf of the writ petitioner states that, the petitioner had legally purchased the land from the temple authorities who are competent to execute the sale deed. There is no irregularity in respect of the sale executed by the authorities. The sale was executed pursuant to the judgement and decree passed by the civil court in O.S.No.75 of 1999. This apart, the respondents have not preferred any appeal against civil court decree and therefore there is no infirmity in respect of the sale of the property belongs to the temple by the authorities concerned. Thus, the suo moto revision of the earlier order passed by the Commissioner does not arise at all. If at all the temple has got any grievance they would have preferred an appeal against the judgement and decree passed by the competent civil court.

3. The learned Special Government Pleader appearing for the respondents states that the entire transactions between the writ petitioner and the temple authorities were fraudulent and the valuable temple properties were sold for a meager amount, thereby causing financial loss to the temple in a fraudulent manner. The properties belong to the temple were dealt with in a manner to circumvent the legal provisions and to get the properties by paying lesser amount to the temple. Thus, the entire transaction of sale was fraudulent and therefore, the Commissioner has passed an order initiating suo moto revision of the earlier order to cancel the sale deed. Thus, there is no infirmity in respect of the order impugned in the present writ petition. In view of the fact that the earlier order of the Commissioner fixing the time limit of six months for the execution of sale deed, which has not been complied with. Thus a suo moto revision was initiated in order to review the earlier order passed by the Joint Commissioner.

4. The Earlier order of the Joint Commissioner, HR&CE, Tirunelveli, in proceeding dated 20.10.2008 states that petitioner shall withdraw the Civil Suit filed by him before the principle Sub Court, Tenkasi in O.S.No. 75 of 1999. This apart, another condition was imposed that the petitioner has to pay donation for a sum of Rs.3,37,500/- to the temple and the said amount may be credited in the temple accounts. In view of the fact that, the said conditions were not complied with by the

parties concerned. The Commissioner has initiated suo moto revision for the purpose of reviewing earlier order passed by the Joint Commissioner in this regard.

5. This Court is of the opinion that, admittedly, the condition imposed by the Joint Commissioner in his proceedings dated 20.10.2008 had not been complied with parties and the suit filed by the writ petitioner has not been withdrawn. Contrarily, the petitioner had obtained a decree in his favour. Thus, there is no irregularity in respect of the suo moto review initiated by the Commissioner. In the event of non-compliance of the conditions imposed by the HR & CE department to the writ petitioner and the same having been violated, then it is the natural course for the competent authority to initiate appropriate proceedings to modify or review the earlier order in accordance with law under the provisions of the Act.

6. In the present case, the petitioner has given an assurance that he would withdraw his suit. However, he has not withdrawn the suit. He allowed the suit to be concluded and obtained decree in his favour. Thus, there is no infirmity in respect of impugned order of suo moto revision now initiated by the Commissioner, HR & CE, Department. It is brought to the notice of this court, that the sale deed was also executed pursuant to the judgement and decree passed by the civil court in O.S.No.75 of 1999.

7. The Commissioner HR&CE Department has no jurisdiction to execute or deal with the document which was registered under the provisions of the Registration Act. Thus, in respect of the document which was registered before the Sub Registrar of Registration Department, the Commissioner has to approach the District Registrar concerned for the purpose of conducting an inquiry and for adjudication. In this regard, the Inspector General of Registration issued a circular Letter No.41530/U1/2017 dated 31.07.2018. A circular states that in respect of fraudulent registrations, impersonation in respect of the registration in Sub Registrar office, the District Registrar concerned shall conduct an inquiry by giving an opportunity to all the parties concerned and thereafter take a decision and passed orders canceling such registrations in the manner known to the law.

8. This being the procedures contemplated and based on the circular issued by the Inspector General of Registration, the competent authority of the HR & CE, Department is bound to approach the District Registrar concerned in respect of the fraudulent sale deed registered in favour of the writ petitioner. Under these circumstances, the following orders are passed:-

a. The impugned order of suo moto revision initiated by the Commissioner, HR&CE department is confirmed.

b. The Commissioner, HR & CE department/Competent authority are directed to file an appropriate application/appeal before the District Registrar concerned for the purpose of conducting an inquiry in accordance with law and for passing orders.

c. All further actions in this regard for the purpose of protecting the temple properties to be taken by the competent authorities/respondents.

9. The writ petition stands disposed of. Consequently Connected Miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Commissioner,
Hindu Religious and Charitable Endowment,
(Admn) dept.
Nungambakkam,
Chennai - 34.
2. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
(Admn) dept.
Tirunelveli - 2.

+1cc to Mr.W.C.Sridhar, Advocate Sr.60347
+1cc to the Special Government Pleader Sr.60664

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srg 01/10/2018