

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.30732 of 2013
& M.P.No.1 of 2013

R. Nallappan

...Petitioner

Vs.

1.The Sub Registrar,
Office of the Registration,
Kangeyam Taluk,
Thiruppur District.

2.The Executive Officer,
Sri Varadharaja Perumal Thirukoil,
Nathakalaiyur, Kangeyam Taluk,
Thiruppur District.

...Respondents

[R2 impleaded as per the order of this Court
dated 22.11.2013 in M.P.2 of 2013
in W.P.No.30732 of 2013]

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order passed by the respondent in his proceedings Mu.Pa.27/2013, dated 31.10.2013 and quash the same and consequently, direct the respondent to register the documents of the petitioner dated 27.06.2013.

For Petitioner : Mr.C.Prakasam

For Respondents: Mr.N.Inbanathan, AGP (for R1)

Mr.M.Maharaja, Spl.G.P. (HR & CE) (for R2)

ORDER

Heard Mr.C.Prakasam, learned counsel for the petitioner; Mr.N.Inbanathan, learned Additional Government Pleader for the first respondent and Mr.M.Maharaja, learned Special Government Pleader (HR & CE) for the second respondent and perused the records.

2. This Writ Petition has been filed challenging the order of the first respondent, directing the petitioner to get 'No Objection Certificate' from the HR & CE Department and to direct the first respondent to register the documents of the petitioner dated 27.06.2013.

3. The case of the petitioner is that his father Ramaboyan purchased lands in Survey No.350/2, Mullipuram Village, Kangeyam Taluk, to an extent of 2.02 acres through a registered sale deed in the year 1959. Thereafter, the Assistant Settlement Officer issued a patta in his name on 13.02.1975. The further case of the petitioner is that from the date of purchase, his father had been in possession and enjoyment of the properties till he died on 23.05.1988.

4. The petitioner would claim that his three sisters have released their right in the property in favour of the petitioner and thereby, he became the absolute owner of the property. When the release deed dated 27.06.2013 was sought to be registered before the first respondent, the same was returned, directing the petitioner to get a 'No Objection Certificate' from the HR & CE Department. Challenging the same, this Writ Petition has been filed.

5. It is submitted by the learned counsel for the petitioner as well as the learned counsels for the respondents that the issue involved in this Writ Petition is covered by a decision of the Division Bench of this Court, reported in 2017 (3) CTC 135 = 2017 (2) LW 637 (Sudha Ravi Kumar and others vs. The Special Commissioner and Commissioner, HR & CE, and others). The relevant portion of the above said order of the Division Bench reads 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."

6. In the light of the above submission, the impugned order is set aside and the Writ Petition is disposed of in the same terms of the said Division Bench order. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS VIII)

True Copy

Sub-Assistant Registrar

pvs

To

1. The Sub Registrar,
Office of the Registration,
Kangayam Taluk,
Thiruppur District.

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2. The Executive Officer,
Sri Varadharaja Perumal Thirukoil,
Nathakalaiyur, Kangeyam Taluk,
Thiruppur District.

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CA(CO)
SP(10/05/2018)



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