

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.08.2018

CORAM

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

W.P.No.27581 of 2017

and

W.M.P.No.29510 of 2017

S.Purushothaman
Trustee Arulmigu Dharmaraja Thirukoil
papparampakkam ... Petitioner

vs

- 1.The Assistant Commissioner,
The Hindu Religious and Charitable Endowment Board,
Tiruvallur.
- 2.The District Registrar,
Registration Department,
Kanchipuram,
Kanchipuram District.
- 3.The Sub Registrar,
Manavala Nagar,
Tiruvallur 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 on the file of the 3rd respondent relating to the order dated 16.10.2017 in Na.Ka.No.260/17 Sa.Pa/Manavala Nagar and quash the same and consequently direct the 3rd Respondent to register the sale deed executed by the Trustees of the Petitioner Temple in favour of D.Govindarajan or such other person in respect of the lands comprised in S.No.506/1 (measuring 42 cents), S.No.506/8 (measuring 4 cents) and S.No.508/12 (7.5 cents) of Papparambakkam Village, Tiruvallur Taluk, Tiruvallur District.

For Petitioner : Mr.T.Saikrishnan
for M/s.Sai, Bharath Ilan,

For Respondent : Mr.M.Maharaja, Spl GP(HR & CE)
for R1
Mr.T.M.Pappiah, Spl GP for R2 & R3

O R D E R

The order of rejection refusing to register the instrument present before the Sub-Registrar, Manavala Nagar dated 16.10.2017 is under challenge in this writ petition.

2.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is the Hereditary Trustee of Arulmigu Dharmaraja Tirukoil, Papparampakkam and he presented a document for registration before the third respondent/The Sub-Registrar. However, the 3rd respondent refused to register the same on the ground that there is an objection from the 1st respondent / The Assistant Commissioner, the Hindu Religious and Charitable Endowment Board in respect of the registration of certain properties belongs to the Temple. Based on the objections raised by the 1st respondent, the 3rd respondent/The Sub Registrar refused to register the document presented by the writ petitioner.

3.The learned counsel for the writ petitioner states that earlier, the writ petitioner filed a Writ Petition in W.P.No.18811 of 2017 and this Court passed an order on 24.07.2017 as follows:

"5. In view of the submissions made by the learned counsel on either side, following the decision of the Division Bench made in W.P.No.30589 of 2013 etc. batch dated 05.04.2017, the order dated 28.07.2015 passed by the 1st respondent is set aside. 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 facts of the case. The 3rd respondent is directed to conduct enquiry and pass orders in accordance with law, within a period of four weeks from the date of receipt of a copy of this order"

4. Without even considering the directions issued by this Court to conduct an enquiry, the 3rd respondent has passed an order in a mechanical manner, once again rejecting the claim of the writ petitioner to register the document presented. The writ petitioner states that no enquiry was conducted in respect of the documents submitted by the petitioner before the 3rd respondent. Thus, the impugned order is to be scrapped.

5. The learned Special Government Pleader appearing on behalf of the respondents 2 and 3 opposed the contention by stating that if any objections are received from the Hindu Religious and Charitable Endowments Department (HR & CE), it is the duty of the Sub-Registrars to reject the registration. Thus, there is no infirmity in respect of the order passed by the 3rd respondent, rejecting the claim of the writ petitioner to register the document presented by him.

6. The learned Special Government Pleader appearing on behalf of the 1st respondent also contended that the property in question belongs to the Temple and the 1st respondent had already registered the objections of the Department for registering any document in respect of the properties belongs to the Temple. Therefore, the 3rd respondent has acted in accordance with the objections given by the 1st respondent/The Hindu Religious and Charitable Endowment Department (HR & CE) and there is no infirmity as such in respect of the impugned order passed.

7. This Court is of an opinion that there was no complete adjudication of documents as rightly contended by the learned counsel for the petitioner. It is made clear that the respondents are incompetent to adjudicate the title, ownership or possession in respect of an immovable property. If any dispute exists in respect of title or ownership, the respective parties are bound to go before the competent Civil Court of law for adjudication. However, the documents presented by the writ petitioner including the judgment and decree passed in the original suit as well as in the First Appeal has to be considered by the competent authorities before passing an order of rejection. In other words, the Civil Court Decrees submitted before the authorities are to be considered in its letter and spirit. The authorities are incompetent to deviate the findings made out in the judgment. However, they have to look into the judgment and ascertain the rights or otherwise of the parties concerned. Such an exercise has not been done by the authorities. There is no such findings in the impugned order.

8.This being the factum, this Court is of an opinion that the 2nd respondent/the District Registrar is competent to conduct an enquiry in respect of such disputed registrations, has to conduct a detailed enquiry by providing an opportunity to all the parties concerned. The Inspector General of Registration also issued circulars in this regard to conduct an enquiry by the District Registrar. Thus, the 2nd respondent has to conduct a detailed enquiry and pass an order on merits and in accordance with law and issue further suitable directions to the 3rd respondent in respect of registering the document presented by the writ petitioner.

9.In this view of the matter, the writ petitioner is directed to submit an appeal, setting out all the grounds and along with the documents to the 2nd respondent/the District Registrar within a period of three weeks from the date of receipt of a copy of this order. On receipt of any such appeal from the writ petitioner, the 2nd respondent / The District Registrar shall conduct an enquiry by affording opportunity to all the parties concerned including the Hindu Religious and Charitable Endowments (HR & CE Act) Department and pass orders on merits and in accordance with law within a period of twelve weeks thereafter.

10.Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

kak

To

WEB COPY

1.The Assistant Commissioner,
The Hindu Religious and Charitable Endowment Board,
Tiruvallur.

2.The District Registrar,
Registration Department,
Kanchipuram,
Kanchipuram District.

3.The Sub Registrar,
Manavala Nagar,
Tiruvallur District.

+lcc to M/S.Sai & Bharath, Advocate, S.R.No.56206
+lcc to the Government Pleader, S.R.No.56196

W.P.No.27581 of 2017

srg 04/09/2018



WEB COPY