

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2018

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.28397 of 2008

and

MP.No.2 of 2008

1.Chandran

2.Sathish

3.C.Ponnusamy Gounder

4.C.Kittusamy Petitioners

Versus

1.The Executive Officer,
Arulmigu Aruthura Kapaleeswarar and
Ragupathi Narayana Perumal Temple,
Madavilagam, Kangayam Taluk,
Erode District.

2.The Sub Registrar,
Kangayam Sub Registrar Office,
Kangayam, Erode District. Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking Writ of Certiorarified Mandamus, to call for the entire records in so far relates to impugned order passed by the 1st respondent in his proceedings No.Nil, dated 06.12.2007 and quash the same and consequently direct the 2nd respondent to register the sale deeds.

For Petitioners : Mr.C.Prakasam

For Respondents : No appearance

O R D E R

The petitioners have prayed to issue of writ of Certiorarified Mandamus, to quash the impugned order passed by the 1st respondent in his proceedings No.Nil, dated 06.12.2007 and further, direct the second respondent to register the sale deeds of the petitioner.

2. The petitioners would submit that the petitioners are the joint owners of the land in Survey No.112/A, A-1,A-3 and A-5 in Alampadi Village, Kangayam Taluk, Erode District. The said lands were purchased from their ancestors in the year 1959 and paying kist and other taxes to the Government from the income derived by way of cultivation from the said lands.

3. The petitioners would further submit that in the year 2007, a partition deed was registered to the extent of 13.95 acres of land before the second respondent's office in Document No.1058, dated 02.03.2007. The petitioners were decided to sell the above said lands. When the petitioners along with the purchasers approached the second respondent for registering the said deeds on 10.11.2008 to get guideline value of the lands, in order to purchase the stamp papers for preparing sale deeds, the second respondent informed to the petitioners that the first respondent viz., The Executive Officer of Arulmigu Aruthura Kapaleeswarar and Ragupathi Narayana Perumal Temple, Madavilagam, Kangayam Taluk, Erode had given an objection letter on 06.12.2007 stating that no registration should be made in the land in Survey No.112/A to the extent of 13.95 acres, since the lands were belonging to the Temple.

4. The petitioners would further contend that the Government had already issued Patta in their names in the year 1983 itself and when the Government had acquired the above said lands for the purpose of digging PAP canal, the Government disbursed the compensation amount to the petitioners. That apart, even in the year 1990, the Government has mentioned the names of the petitioners as owners in respect of Survey Nos.112/A-2 and A-4, and the Temple as owner in respect of the Survey No.112/B-2. When the lands in Survey No.112/A, A-1,A-3 and A-5 are belonging to the petitioners herein, from the days of their grand-father the impugned order cannot be passed and hence, the petitioners had challenged the said order issued by the first respondent vide letter dated 06.12.2007 by way of this present writ petition.

5. Heard the learned counsel appearing for the petitioner and perused the materials available on record.

6. When similarly placed persons/co-owners, having aggrieved over the above said order issued by the first respondent, filed WP.No.7940 of 2008, this Court, on 01.08.2008, passed a detailed order, wherein, it has been observed in the paragraph Nos.7 and 8 as follows:-

"7. There cannot be any doubt that the Registering Officer has no power to decide the disputed question

of title. It is only for the competent Civil Court to decide. When a document is produced before the Registering Officer, under the Registration Act, it is the duty of the Registering Officer to see whether the execution of the document has been admitted and whether the persons who have executed the document have been properly identified. According to the Act, it is for beyond the scope of the power of the Registrar to decide the question as to whether the person, who has executed the document has got title to convey or not.

8. Therefore, in my considered opinion, the impugned letter dated 06.12.2007 written by the first respondent cannot bind the second respondent. The said letter therefore, does not require any quashment. At the same time, it is made clear, if it is the case of the first respondent that the temple is the absolute owner of the property, the first respondent is at liberty to approach the Civil Court to establish the title of the temple, if so advised. Equally, if it is so advised, the petitioners can also approach the Civil Court to get the disputed question of title decided by the Civil Court."

7. It is brought to the notice of this Court that as per the above order of this Court in WP.No.7940 of 2008, the first respondent viz., Temple had initiated several proceedings before the District Munsif Court at Kangayam, Erode particularly in O.S.No.11 of 2001, wherein the petitioners viz., Chandran, Sathish, Ponnusamy and Kittusamy, were shown as parties to the said suit.

8. There is no representation on behalf of the respondent, to ascertain the present status of the above case, pending before the District Munsif Court at Kangayam, Erode.

9. Since the subject issue was already relegated to the Civil Court, nothing survives for further adjudication in this Writ Petition and hence, the Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1.The Executive Officer,
Arulmigu Aruthura Kapaleeswarar and
Ragupathi Narayana Perumal Temple,
Madavilagam, Kangayam Taluk,
Erode District.

2.The Sub Registrar,
Kangayam Sub Registrar Office,
Kangayam, Erode District.

+lcc M/S. Mr.M.Sriram, Advocate Sr.49207
+lcc to the Government Pleader Sr.48940
+lcc to Mr.C.Prakasam, Advocate Sr.48805

W.P.No.28397 of 2008

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srg 19/12/2018



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