

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10-08-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3453 of 2016

Nagarajan

.. Petitioner

Versus

1.The Sub-Registrar Joint II,
Tirupur,
Tirupur District.

2.The Commissioner,
Hindu Religious and Charitable Endowments
Department,
Tirupur Taluk and District.

3.The Executive Officer,
Arulmigu Visweswarasamy and Veeraragava
Perumal Temples,
Tirupur Taluk and District.

.. Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the first respondent to register the pending document No.P62/2015 within the period stipulated by this Court.

For Petitioner : Mr.K.Vignesh Karthick

For Respondent-1 : Mr.T.M.Pappiah,
Special Government Pleader.

For Respondent-2 : Mr.M.Maharaja,
Special Government Pleader (HR&CE).

For Respondent-3 : Ms.G.Sumitra

O R D E R

The relief sought for in this writ petition is for a direction to direct the first respondent to register the pending document No.P62/2015 within the time stipulated.

2. The grievance of the writ petitioner is that the document presented by him before the first respondent/Sub-Registrar has not been registered and therefore, the writ petitioner is constrained to move the present writ petition.

3. The writ petitioner had purchased an immovable property of land and building admeasuring an extent of 2400 sq.ft., comprised in old S.F.Nos.129 and 131, New S.F.No.118, Block No.2, Ward No.L., situated at Site No.28, Sengunthapuram Third Street, Tiruppur from his vendor one Mr.Dhandapani by paying the consideration.

4. The writ petitioner presented the Sale Deed in pursuance to the said alienation before the first respondent after paying the necessary registration charges on 6.7.2015. However, the first respondent refused to register the same on the ground that the writ petitioner has to obtain No Objection Certificate (NOC) from the Hindu Religious and Charitable Endowments Department (HR&CE). The Hindu Religious and Charitable Endowments Department has submitted an objection letter not to register certain documents in respect of the lands belong to various temples.

5. Thus, the first respondent refused to register the document presented by the writ petitioner on the ground that there is an objection from the Hindu Religious and Charitable Endowments Department and therefore, No Objection Certificate has to be obtained from the Hindu Religious and Charitable Endowments Department for executing the Sale Deed in favour of the writ petitioner. In the event of any objection from the Hindu Religious and Charitable Endowments Department, the first respondent has to consider the same and only in the event of production of No Objection Certificate, they can register the same.

6. Thus, there is no infirmity in respect of the actions taken by the first respondent. However, all these issues, in relation to the refusal of registration, have been dealt with by the Hon'ble Division Bench of this Court in the case of Sudha Ravi Kumar and Another vs. The Special Commissioner and Commissioner, HR&CE Department [2017 (3) CTC 135]. The relevant paragraph-25 of the judgment, cited supra, is extracted hereunder:-

"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."

7. Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Svn

To

- 1.The Sub-Registrar Joint II,
Tirupur,
Tirupur District.
- 2.The Commissioner,
Hindu Religious and Charitable Endowments
Department,
Tirupur Taluk and District.
- 3.The Executive Officer,
Arulmigu Visweswarasamy and Veeraragava
Perumal Temples,
Tirupur Taluk and District.

+1cc to Mr.G.SUMITRA, Advocate, S.R.No. 55098
+1cc to the Government Pleader, S.R.No. 55335 & 55461
+1cc to Mr.VPK.GOWTHAM, Advocate, S.R.No. 55586
+1cc to Mr.K.VIGNESHKARTHICK, Advocate, S.R.No. 55751

WP 3453 of 2016

RK(CO)
TR(29/08/2018)

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