

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.11.2018

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P. No.28958 of 2018
and W.M.P.No.33849 of 2018

P.K.Poomani

.. Petitioner

Vs.

1. The Inspector General of Registration,
Santhome High Road,
Pattinapakkam,
Chennai 600 028.
2. The District Collector,
Tiruppur District, Tiruppur.
3. The Joint Sub Registrar-II,
Tiruppur.
4. The Assistant Commissioner,
The Hindu Religious and Charitable Endowment
Department,
Arulmigu Visweswara Swamy and Veeraragava
Perumal Temples, Easwarankoil Street,
Tirupur - 641 604.
5. The Executive Officer,
Arulmigu Visweswara Swamy and Veeraragava
Perumal Temples, Easwarankoil Street,
Tirupur - 641 604.

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for records of the fourth respondent in Na.Ka.No.5281/2017/A2 dated 29.12.2017 and quash the same as illegal, unsustainable and further direct the respondents 1 to 3 herein to admit and register documents such as Sale Deeds, Settlement Deeds, Mortgage Deed etc., with respect to the petitioner's land measuring an extent of 2128 sq.ft. and building thereon comprised in T.S.No.113, Block No.3, Ward-L, Tiruppur Town in the approved layout known as Chinnaasamy Layout in Old S.F.No.130, Tiruppur Village, Tiruppur Taluk, Tiruppur District

now bearing Municipal Door No.7(3), Chinnasamy Layout 1st Street, Mangalam Road, Tiruppur - 641 604.

For Petitioner : Mr.V.P.Sengottuvel

For Respondents 1 to 3 : Mr.T.M.Pappaiah, AGP

For Respondent 4 : Mr.M.Maharaja,
Special Government Pleader
(H.R & C.E)

O R D E R

This writ petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for records of the fourth respondent in Na.Ka.No.5281/2017/A2 dated 29.12.2017 and quash the same as illegal, unsustainable and further direct the respondents 1 to 3 herein to admit and register documents such as Sale Deeds, Settlement Deeds, Mortgage Deed etc., with respect to the petitioner's land measuring an extent of 2128 sq.ft. and building thereon comprised in T.S.No.113, Block No.3, Ward-L, Tiruppur Town in the approved layout known as Chinnasamy Layout in Old S.F.No.130, Tiruppur Village, Tiruppur Taluk, Tiruppur District now bearing Municipal Door No.7(3), Chinnasamy Layout 1st Street, Mangalam Road, Tiruppur - 641 604.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents.

3. The dispute is between the petitioner and the fifth respondent-temple in respect of the petition mentioned property. The petitioner claims right and title to the property by way of title deeds. It is stated that the petitioner had purchased Plot in T.S.No.113, Ward-L, Block-3 (Old S.F.No.130) measuring an extent of 2128 sq.ft. by way of Sale Deed dated 24.08.1996 from his vendor and also constructed a commercial building thereon after obtaining planning permit from Tirupur Municipality. The petitioner also claims to be in continuous possession of the said property. While so, when the petitioner approached the District Central Cooperative Bank, Coimbatore for mortgage/loan to put up a further construction, the third respondent, who is the Sub Registrar, refused to register the same, as the fifth respondent-Temple had claimed ownership over the property. Hence, the above Writ Petition has been filed.

4. Earlier in a batch of Writ Petitions, a Division Bench of this Court in similar circumstances, had directed the registering authority to issue notice to the parties concerned and conduct an enquiry under Section 22-A of the Registration

Act. In the said batch of Writ Petitions, i.e. in W.P.No.30589 of 2013, etc., by order dated 05.04.2017, the Division Bench directed as follows:

(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.

5. The said order has also been followed by this Court in several matters.

6. In view of the above direction issued by the Division

Bench, and as the issue involved in the present Writ Petition is also with regard to the Registering Authority, the present Writ Petition is allowed and the impugned order is set aside with the above said same directions issued by the Division Bench. However, the above said exercise shall be completed by the third respondent within a period of three months from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Srn

To

1. The Inspector General of Registration,
Santhome High Road,
Pattinapakkam,
Chennai 600 028.
2. The District Collector,
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3. The Joint Sub Registrar-II,
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5. The Executive Officer,
Arulmigu Visweswara Swamy and Veeraragava
Perumal Temples, Easwarankoil Street, Tirupur - 641 604.

+1 cc to Mr.V.P.Sengottuvel, Advocate Sr.No.76584
+1 cc to The Special Government Pleader, Sr.No.77093
+1 cc to The Government Pleader, Sr.No.77053

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NMI (CO)
CSL/19.12.2018