

3IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2018

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.30817 of 2018 and
W.M.P.Nos.35960 & 35961 of 2018

R.Eswaramoorthy

... Petitioner

Vs.

1. The Inspector General of Registration,
Santhome High Road,
Pattinapakkam, Chennai - 600 028.
2. The District Registrar,
Tiruppur District.
3. The Joint Sub-Registrar-II,
Tiruppur.
4. The Executive Officer,
Arulmigu Visweswara Swamy &
Veeraragava Perumal Temples,
Easwaran Koil Street,
Tirupur - 641 604.

.. Respondent

PRAYER: Writ Petitions filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the entire records of the 3rd respondent which culminated in the notice affixed in the notice board of the office of the 3rd respondent, dated Nil and quash the same in so far as it relates to Old Survey No.200, Tiruppur Village alone and further direct the respondents 1 to 3 herein to admit and register document such as Memorandum Deposit of Title Deed with respect to the petitioner's patta land comprised in new T.S.No.21 measuring to an extent of 397.5 Sq.Mts in Ward-N, Block 9 (T.S.No.289, New Ward No.4 (Old Ward No.19)) Tiruppur Town, Tiruppur Taluk, Tiruppur District bearing Door Nos.408 to 411, Palladam Road, Tiruppur - 641 604 and return the said document on such registration.

For Petitioner : Mr.V.P.Sengottuvel
For 1st to 3rd
Respondents : Mr.T.M.Pappiah
Special Government Pleader

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

O R D E R

The present Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the entire records of the 3rd respondent which culminated in the notice affixed in the notice board of the office of the 3rd respondent, dated Nil and quash the same in so far as it relates to Old Survey No.200, Tiruppur Village alone and further direct the respondents 1 to 3 herein to admit and register document such as Memorandum Deposit of Title Deed with respect to the petitioner's patta land comprised in new T.S.No.21 measuring to an extent of 397.5 Sq.Mts in Ward-N, Block 9 (T.S.No.289, New Ward No.4 (Old Ward No.19)) Tiruppur Town, Tiruppur Taluk, Tiruppur District bearing Door Nos.408 to 411, Palladam Road, Tiruppur - 641 604 and return the said document on such registration.

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

3. The dispute is between the petitioner and the fourth respondent-temple in respect of the petition mentioned property. The petitioner claims right and title over the property by way of tittle deed. It is also stated that proceedings were initiated under the Madras Minor Inam (Abolition and Conversion into Ryotwari) Act, 1963, and an order was passed by the Settlement Tahsildar, Gobichettipalayam, on 22.04.1969 for issuance of Ryotwari Patta under Section 8(2)(i)(a) of the Act. The said order of the Settlement Tahsildar had become final and it is binding on all parties including the fourth respondent-temple.

4. It is further stated that the petitioner is in absolute possession and enjoyment of the land comprised in new T.S.No.21 measuring to an extent of 397.5 Sq.Mts. in Ward-N, Block 9 (T.S.No.289, New Ward No.4 (Old Ward No.19)) Tiruppur Town, Tiruppur Taluk, Tiruppur District bearing Door Nos.408 to 411, Palladam Road, Tiruppur. Whiles, when the petitioner approached various Banking/Financial Institutions for

mortgage/loan to his business, the 3rd respondent, who is the Joint Sub-Registrar-II, refused to register the document such as Memorandum of Deposit of Title Deed stating that unless the fourth respondent Temple who had claimed ownership to one of the Survey Numbers, delete T.S.No.289 from the list or issue a No Objection Certificate, he is not in a position to register any document with respect to the said land. Aggrieved by the same, the present Writ Petition has been filed.

5. Earlier in a batch of Writ Petitions, the Hon'ble 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.

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

7. 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 (3) months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,
Santhome High Road,
Pattinapakkam, Chennai - 600 028.
2. The District Registrar,
Tiruppur District.
3. The Joint Sub-Registrar-II,
Tiruppur.

4. The Executive Officer,
Arulmigu Visweswara Swamy &
Veeraragava Perumal Temples,
Easwaran Koil Street,
Tirupur - 641 604.

+lcc to Mr.V.P.Sengottuvel, Advocate Sr.82671
+lthe Special Government Pleader Sr.82573
+lcc to the Government Pleader Sr.82929

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mr[co]
srg 04/01/2019