

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11.12.2018

CORAM

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.32290 of 2018
and W.M.P.Nos.37525 & 37530 of 2018

1. K. Viswanathan
2. V. Thilagavathy

.. Petitioners

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 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 the entire records of the third respondent which culminated in the notice affixed in the notice board of the office of the third respondent dated nil and quash the same in so far as it relates to Plot Nos.50 & 51 measuring an extent of 5,713 sq.ft. in the approved layout comprised in Old S.F.No.133, Tiruppur Village later sub divided as S.F.No.133/45, Tiruppur Village now bearing Door No.12/26A, Giri Nagar 1st Street, Poochakkadu, Tiruppur - 641 604.

For Petitioners : Mr.V.P.Sengottuvel

For RR1 to 3 : Mr.M.Thamizharasan,
Government Advocate

For R4 : Mr.M.Maharaja,
Special Government Pleader (HR & CE)

O R D E R

This writ petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the entire records of the third respondent which culminated in the notice affixed in the notice board of the office of the third respondent dated nil and quash the same in so far as it relates to Plot Nos.50 & 51 measuring an extent of 5,713 sq.ft. in the approved layout comprised in Old S.F.No.133, Tiruppur Village later sub divided as S.F.No.133/45, Tiruppur Village now bearing Door No.12/26A, Giri Nagar 1st Street, Poochakkadu, Tiruppur - 641 604.

2. Heard Mr.V.P.Sengottuvel, learned counsel appearing for the petitioner and Mr.M.Thamizharasan, learned Government Advocate appearing for the respondents 1 to 3 and Mr.M.Maharaja, learned Special Government Pleader appearing for the fourth respondent.

3. It is stated by the petitioners that the father of the first petitioner had purchased Plot Nos.50 and 51 measuring an extent of 5,713 sq.ft in the approved layout comprised in S.F.No.133, Tiruppur Village by way of Sale Deed dated 16.05.1964 from his vendor. The dispute is between the petitioners and the fourth respondent-temple in respect of the petition mentioned property. The petitioners claim right and title to the property by way of title deeds. It is also stated that proceedings were initiated under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act and an order was passed by the Settlement Tahsildar, Coimbatore on 04.11.1974 for issuance of Ryotwari Patta under Section 11 read with 13 and 8 (i) of the said Act. The said order of the Settlement Tahsildar had become final and it is binding on all parties including the fourth respondent-Temple.

4. The petitioner's father died intestate on 13.02.1989 leaving behind his wife, son/the first petitioner herein and daughters as his legal heirs. Later, the two sisters of the first petitioner released their right in favour of their mother and the first petitioner herein under a Release Deed dated 10.11.1999 on the file of Joint Sub-Registrar-II, Tiruppur. Thereafter, the first petitioner constructed a building thereon. While so, the first petitioner wants to avail loan by mortgaging the above property or to sell the said land and building and when he approached the third respondent for registration of Memorandum of Deposit of Title Deed/Mortgage Deed/Sale Deed, the third respondent, who is the Sub Registrar, refused to register the same, as the fourth respondent-Temple had claimed ownership

over the property. Hence, the above Writ Petition has been filed.

5. The issue involved in this writ petition is covered by a Division Bench judgment of this Court in *Sudha Ravi Kumar V. The Special Commissioner and Commissioner, HR & CE, Chennai*, 2017 3 CTC 135, wherein, the Division Bench 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 months from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rsi

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 and Veeraragava
Perumal Temples, Easwarankoil Street,
Tirupur - 641 604.

+1cc to Mr.V.P.Sengottuvel, Advocate, S.R.No.85312
+1cc to the Special Government Pleader (HR & CE), S.R.No.86023
+1cc to the Government Pleader, S.R.No.86235

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RJI (CO)
CS/08/01/2019