BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2018

CORAM:
THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A(MD)No.1053 of 2013

The Idol of Srirenganathar,
Rep. by its Executive Officer,
Srirangam,
Tiruchirappalli. ... Appellant/4th Respondent

Vs.

1.The Government of Tamil Nadu,
Rep. by its Secretary,
Commercial Taxes,
Chennai - 9.

2.The Registrar General (Registration),
Chennai.

3.The Sub-Registrar,
Registration Office,
Srirangam,
Tiruchirappalli. ... Respondents 1 to 3/Respondents 1 to 3

4.V.Rangarajan ... 4th Respondent/Petitioner

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order, dated 18.02.2013 made in W.P(MD)No.7260 of 2007, on the file of this Court.

Prayer in WP(MD). 7260/ 2007 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certioraraified Mandamus, calling for records pertaining to Inspection note 04-07 dt. 31/05/2007 on the file of the Third respondent and quash the same, and consequently direct the third respondent to register the document as per the Judgment in 2007 (3) CTC 513.

For Appellant : Mr.M.P.Senthil

For RR 1 to 3 : Mr.M.Murugan,
Government Advocate.

For R - 4 : Mr.C.Susi Kumar

JUDGMENT

(Judgment of the Court was delivered by PUSHPA SATHYANARAYANA,J.)

The fourth respondent-Temple in the Writ Petition has preferred the above Writ Appeal challenging the order, dated 18.02.2013 passed in W.P(MD)No.7260 of 2007.

2. The Writ Petition was filed by the fourth respondent herein/writ petitioner calling for the records pertaining to the Inspection note 04-07, dated 31.05.2007, on the file of the third respondent and to quash the same.

3. A settlement deed, dated 08.05.2007 was presented for registration, but the same was refused by the third respondent on the ground that an objection was raised by the appellant/fourth respondent-Temple stating that they are the rightful owners of the property in T.S.No.251/2, Srirangam Ward No.2, Vellithurumutham Village. Section 22-A of the Registration Act empowers the third respondent to refuse to register a document, if the same belonged to any religious institution, to which, the Tamil Nadu Hindu Religious and Charitable Endowment Act, is applicable. Based on the same, the third respondent had returned the document refusing to register.

4. After filing of the Writ Petition, the Honourable Supreme Court in *State of Rajasthan and others Vs. Basant Nahata* reported in *2005 (4) CTC 606*, struck down the amended provision of Section 22-A of the Registration Act, as made in Registration (Tamil Nadu Amendment), Act 1994, as unconstitutional and ultra vires.

5. The learned Single Judge closed the Writ Petition observing that since the power conferred under Section 22-A of the Registration Act has been struck down by the Honourable Supreme Court, the impugned order is of no consequence and directed the parties to get the title adjudicated in the manner known to law. Now, the Writ Appeal is preferred by the appellant/fourth respondent-Temple, who is not actually aggrieved on the date of filing of the Writ Appeal.

6. The learned counsel appearing for the appellant/fourth respondent-Temple contends that Section 22-A of the Registration Act, was again brought back on 20.10.2016. The proceedings under Section 22-A of the Registration Act, which were struck down earlier, is now in force, and hence the appellant/fourth respondent-Temple cannot be an aggrieved person.

7. Be that as it may, the Division Bench of this Court in *Sudha Ravi Kumar and another Vs. The Special Commissioner and Commissioner* reported in *2017(1) Writ LR 481* in paragraph No.25 has held as follows:-

> *"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 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."

8. As per the above proposition, it is open to the fourth respondent/writ petitioner to move the civil Court to establish his title, without deciding the same, he cannot seek for registration, as Section 22-A of the Registration Act once again empowers the third respondent to refuse registration at the instance of any religious institution.

9. Accordingly, the Writ Appeal is disposed of. No costs.

Sd/

Assistant Registrar(Crl Side)

/True copy/

Sub Assistant Registrar(CS-III)

To

1.The Secretary,
Rep. by the Government of Tamil Nadu,
Commercial Taxes,
Chennai - 9.

2.The Registrar General (Registration),
Chennai.

3.The Sub-Registrar,
Registration Office,
Srirangam,
Tiruchirappalli.

+1cc to Mr.M.P.SENTHIL, Advocate, SR.No. 82903
+1cc to M/s.Special Government Pleader,SR.No. 83052

W.A(MD)No.1053 of 2013
06.09.2018

PS
KK/SV/SAR-3/08.10.2018/4P-6C