

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.11.2019

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.20651 of 2009

A. Manicka Mudaliar Trust,
rep. by Hereditary Trustee,
Mr.A.Viswanathan,
No.9, Perumal Street,
Chidambaram

... Petitioner

Vs.

1. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Cuddalore.

2. The District Registrar,
Registration Department,
Chidambaram.

3. The Sub-Registrar,
Sub Registrar Office,
Chidambaram

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari to call for the records of the first respondent in its proceedings in Na.Ka.No.4198/2001-1/A4, dated 30.04.2009 and quash the same.

For Petitioner : Mr. Yashod Varathan,
Senior counsel, for
Mr. R.Sunilkumar

For respondents : Mr. R. Govindasamy,
Spl. G.P. for R2 & R3

: Mr. M.Maharaja,
Spl. G.P., for R1

O R D E R

This writ petition has been filed challenging the order passed by the first respondent- Assistant Commissioner, Hindu Religious and Charitable Endowment, requesting the District Registrar not to register the property in respect of various survey numbers, in Cuddalore District, in respect of the properties belong to one Manicka Mudaliar Trust, Cuddalore District.

2. According to the petitioner, the Trust is a private trust and it is a composite trust. It does not come under the purview of H.R. & C.E. Being a private trust, earlier, they want to sell the property and approached the competent Court and obtained permission to sell the property. Pursuant to the same, he has also sold the property. Now, when he approached the concerned Sub-Registrar for registering the property, by virtue of the impugned order passed by the first respondent, the Sub-Registrar declined to register the land. Hence, challenging the order passed by the first respondent, the present writ petition has been filed.

3. The learned counsel appearing for the respondents submitted that it is not a private trust as told by the petitioner. It is a public trust, which comes under the purview of the H.R. & C.E. Department. Earlier on an application filed by the petitioner's predecessor, one Arumugasamy, under Section 67(b) of the Tamil Nadu Hindu Charitable Endowment Act to declare him as a hereditary trustee of the trust, the Deputy Commissioner, H.R. & C.E., Department passed an order dated 20.10.1970 declaring him as a hereditary trustee. After his death, on an application filed by the petitioner under Section 54(1) of the Act, to record him as a hereditary trustee, the petitioner was recorded as a hereditary trustee and also produced a copy of the order passed by the Deputy Commissioner, H.R. & C.E.. In the above circumstances, the petitioner cannot claim it as a private trust. The alleged permission granted by the Court to the petitioner to sell the property was obtained by the petitioner without impleading the H.R. & C.E. Department, and it is not binding the H.R. & C.E.

4. The learned counsel for the petitioner is not in a position to dispute the above position. The learned Senior Counsel appearing for the petitioner would submit that pursuant to the permission granted by the Principal District Court, Cuddalore, the petitioner sold the property in favour of the third parties and now the entire sale proceeds is in the Court deposit. In the said circumstances, the petitioner may be permitted to approach the Commissioner, H.R. & C.E., seeking permission to approve the sale made by the petitioner.

5. I have considered the rival submissions and perused the materials available on records carefully.

6. Considering the above circumstances, as the Trust is a Public Trust, and the petitioner was recorded as its hereditary trustee, the prayer sought by the petitioner cannot be granted. However, considering the fact that the entire sale proceeds of the previous sale has been deposited in the Court deposit, the petitioner is permitted to make application before the Commissioner, H.R. & C.E. Department, under Section 34 of the Act seeking approval for the sale made by the petitioner. If any such application is filed, the Commissioner is directed to consider the same and pass suitable orders on merits. It is also made clear that the petitioner should not make any further alienation without permission of the Commissioner, H.R. & C.E. Department.

7. With the above directions, this writ petition is disposed of. No cost.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

mrp
To

1. The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Cuddalore.

2. The District Registrar,
Registration Department,
Chidambaram.

3. The Sub-Registrar,
Sub Registrar Office,
Chidambaram.

+1cc to Mr.R.Sunilkumar, Advocate Sr.96650

W.P.No.20651 of 2009

sj[co]
srg 11/02/2020