

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 31.01.2019
CORAM
THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.2794 of 2019 and
W.M.P.No.3066 of 2019

J.Vasanthakumar

.. Petitioner

Vs.

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

.. Respondents

PRAYER: Writ Petitions filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 and 2 herein to admit, register and return Sale Deed dated 21.01.2019 executed by the petitioner herein in favour of Yasin with respect to the land comprised in Old S.F.No.27, New T.S.No.7/1A and 3A Part measuring 664.70 Sq.Mts. (7155 Sq.ft.) in Block No.1, Ward-G, Tiruppur South Town and Tiruppur South Taluk, Tiruppur District.

For Petitioner : Mr.V.P.Sengottuvel

For 1st to 2nd
Respondents : Mr.T.M.Pappiah
Special Government Pleader

For 3rd and 4th
Respondents : Mr.M.Maharaja
Special Government Pleader
(H.R. & C.E)

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O R D E R

The present Writ Petition has been filed for issuance of a Mandamus to direct the respondents 1 and 2 herein to admit, register and return Sale Deed dated 21.01.2019 executed by the petitioner herein in favour of Yasin with respect to the land comprised in Old S.F.No.27, New T.S.No.7/1A and 3A Part measuring 664.70 Sq.Mts. (7155 Sq.ft.) in Block No.1, Ward-G, Tiruppur South Town and Tiruppur South Taluk, Tiruppur District.

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-II, Gobichettipalayam, on 19.09.1968 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 Old S.F.No.27, New T.S.No.7/1A and 3A Part measuring 664.70 Sq.Mts. (7155 Sq.ft.) in Block No.1, Ward-G, Tiruppur South Town and Tiruppur South Taluk, Tiruppur District. While so, when the petitioner decided to sell the said land, he approached the 2nd respondent, who is the Joint Sub-Registrar-II and presented the Sale Deed dated 21.01.2019 for registration. But, the second respondent refused to register the same stating that no registration of documents can be entertained with respect to S.F.No.27, as the fourth respondent has represented not to enter registration of any document with respect to land comprised in S.F.No.27, as the same belong to the temple and therefore 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, a 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 disposed of with the directions issued by the Division Bench in the order stated supra. However, the above said exercise shall be completed by the second 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 Petition is closed.

Sd/-
Assistant Registrar

//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 Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Arulmigu Visweswara Swamy &
Veeraragava Perumal Temples,
Easwaran Koil Street,
Tirupur - 641 604.
5. The Executive Officer,
Arulmigu Visweswara Swamy &
Veeraragava Perumal Temples,
Easwaran Koil Street,
Tirupur - 641 604.

+2ccs to Mr.V.P.Sengottuvel, Advocate, S.R.No.8468 & 8302.
+2ccs to the Government Pleader, S.R.No.9418 & 9132

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rrs 04/02/2019