

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.12788 of 2019
and
W.M.P.No.12994 of 2019

P.Arulselvam ...Petitioner

Vs.

1. The Inspector General of Registration,
Santhome High Court,
Pattinapakkam,
Chennai.
 2. The District Registrar,
Tiruppur,
Tiruppur District.
 3. The Joint Sub Registrar No.II,
Tiruppur,
Tiruppur District.
 4. The Executive Officer,
Arulmigu Visweswara Swamy and
Veeraragava Perumal Temple,
Easwaran Kovil street,
Tiruppur,
Tiruppur District.
- ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the order dated 08.04.2019 vide proceedings in No.RFL/2 on the file of 3rd respondent and quash the same and directing the 3rd respondent to register and release sale deed dated 08.04.2019 to the petitioner within time bound manner.

For Petitioner : Mr. R..Dillikumar

For Respondents : Mr.P.P.Purushothaman,
Government Advocate for R1 to R3
Mr.M.Maharaja,
Special Government Pleader for R4

O R D E R

Mr.P.P.Purushothaman, learned Government Advocate takes notice for the respondents 1 to 3. Mr.M.Maharaja, learned Special Government Pleader takes notice for the 4th respondent/HR&CE. By consent of the parties, the main writ petition is taken up for final disposal.

2. The petitioner is aggrieved against the check slip issued by the 3rd respondent refusing to register the document, namely sale deed presented by the petitioner on the reason that there is an objection raised by the HR & CE Department.

3. Heard both sides.

4. It is stated that the petitioner had purchased the subject matter property from one Kalamani by way of sale deed dated 8.4.2019 and presented the same before the 3rd respondent for registration, who in turn refused to register the same by issuing the impugned check slip. According to the petitioner, the 4th respondent temple is not having any right or title over the subject matter property and therefore, the 3rd respondent is not justified in refusing for registration.

5. It is submitted by the learned counsel for the petitioner as well as the learned counsel appearing for the 4th respondent that in identical circumstances, the Division Bench of this Court by order dated 5.4.2017 made in W.P.No.30589/2013 etc. issued certain directions to the registering authority as to how the matter has to be dealt with in a case of an objection raised by the religious institution. Therefore, the learned counsel submitted that similar order can be passed in this matter as well.

6. Perusal of the said order of the Division Bench would show that at paragraph No.25, it has been observed 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 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.

(vi) Consequently the connected miscellaneous petitions are closed. No costs.

7. In view of the above stated facts and circumstances and in view of the order passed by the Division Bench as stated supra, this Writ Petition is disposed of in the line of the order passed by the Division Bench as stated supra. Consequently, the 3rd respondent shall follow the above directions issued by the Division Bench in the case of the petitioner also and act accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar

//True Copy//

Sub Asst. Registrar

To

1. The Inspector General of Registration,
Santhome High Court,
Pattinapakkam,
Chennai.
2. The District Registrar,
Tiruppur,
Tiruppur District.
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Tiruppur,
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4. The Executive Officer,
Arulmigu Visweswara Swamy and
Veeraragava Perumal Temple,
Easwaran Kovil street,
Tiruppur, Tiruppur District.

+2 CC to the Government Pleader SR.NO.43046,42539
+1 cc to R.Dillikumar, Advocate, Sr.No. 41450(12.06.2019)

W.P.No.12788 of 2019

CO(SVI)
VC (08/06/2019)

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