

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 22.01.2019

CORAM:
THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.38877 of 2016 and
WMP.No.33315/2016

Thathampatti Weavers' Housing Society
Represented by its President K.A.Venkatachalam,
115, Valluvar Kudiyruppu,
Thathampatti,
Salem-636 014.

... Petitioner

Vs.

1.The Joint-I Sub Registrar,
Salem East,
Ramasundaram Street,
Salem-636 001.

2.The Assistant Commissioner/Executive Officer,
Kasi Viswanatha Swamy Temple,
HR & CE Department,
Having office at Arulmigu Sugavaneswarar Swamy Temple,
Salem-636 001.

.... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the entire records of the first respondent in Mu.Mu.No.8907/AaBaPi/2007 dated 09.01.2008 and quash the order passed therein and direct the first respondent to register and release the documents covered in the impugned proceedings.

For Petitioner : Mr.A.P.Srinivas

For 1st Respondent : Mr.T.M.Pappiah,
Special Government Pleader

O R D E R

This Writ Petition has been filed challenging the correctness of the impugned order dated 09.01.2018 passed by the first respondent, namely, The Joint-I Sub Registrar, Salem East, Ramasundaram Street, Salem-636 001.

2. Learned Counsel appearing for the petitioner submitted that the petitioner society has bought the lands covered in Old S.No.18 and Rs.No.18/1, 18/2 and 18/3 situated in Thathampatti in Ammapettai Village about 12.76 Acres by way of two registered sale deeds dated 20.12.1993 and 25.05.1994 from Ganapathy Gurukkal and heirs of Kandasubramania Gurukkal for valid consideration. After developing the lands into house sites forming a colony, they obtained housing loan from HDFC Bank and also built houses therein and all the houses are in the same size, specially built for the weavers only having place for weaving loom. Since they had to register the houses in the individual names of the members, seven (7) sale deeds were initially made ready in the year 2004 and 2007 and they were submitted to the first respondent for registration. However, when the first respondent had registered the sale deed No.110/2007, refused to release the same and he also declined to register the remaining six sale deeds and kept them pending for registration. Subsequently, when request was made for registration and releasing the document, the impugned order has been passed stating that a Civil Suit in O.S.No.137 of 2004 is pending on the file of the Fast Track Court, Salem for declaration that the property belongs to Hindu Religious and Charitable Endowment Department. On that basis, they declined to register the same.

3.The learned counsel appearing for the petitioner further placing on record, a judgment of the Division Bench of this Court in Sudha Ravi Kumar vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department, Chennai and two others reported in 2017 (3) CTC 135 submitted that the issue raised in the present writ petition challenging the impugned order has been answered by this Court in paragraph 25.

4. Learned Special Government Pleader appearing for the first respondent also conceding to the prayer submitted that the 1st respondent will conduct an enquiry on the basis of the ratio laid down by this Court in paragraph 25 of the decision cited above and if they are able to satisfy the 1st respondent, they will release the registered document and also register and release the remaining six documents expeditiously.

5. Heard the learned Counsel on either side. I have also perused the materials available on record carefully including the judgment of the Division Bench of this Court.

6.It is relevant to extract Paragraph No.25 of the Judgment of the Division Bench of this Court in Sudha Ravi Kumar vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department, Chennai and two others reported in 2017 (3) CTC 135 reported in 2017 (3) CTC 135

hereunder :

'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 the light of the above, the Writ Petition stands allowed and the impugned order of the 1st respondent dated 09.01.2008 is set aside. The respondents are directed to complete the aforesaid entire exercise within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gmd/tsi

To

- 1.The Joint-I Sub Registrar,
Salem East,
Ramasundaram Street,
Salem-636 001.
- 2.The Assistant Commissioner/Executive Officer,
Kasi Viswanatha Swamy Temple,
HR & CE Department,
Having office at Arulmigu Sugavaneswarar Swamy Temple,
Salem-636 001.

+lcc to Mr. A.P.Srinivas, Advocate, S.R.No.4690
+lcc to the Government Pleader, S.R.No.5508

W.P.No.38877 of 2016

SVI (CO)

rrs 11/02/2019

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