



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.06.2019**

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P. (MD) No.13065 of 2019

K. Lakshmanan

... Petitioner

-Vs-

1. The District Registrar,
O/o.The District Registrar,
Palani,Dindigul District.

2. The Sub Registrar,
Keeranoor, Dindigul District.

3. The Commissioner,
HR&CE Department,
Dindigul, Dindigul District.

4.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Dindigul, Dindigul District.

5. The Tahsildar,
O/o the Taluk Office,
Palani, Dindigul District.

... Respondents

Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings issued by the 1st respondent in Na.Ka.No.1591/A1/2018 dated 23.05.2018 and quash the same and consequently direct the 4th and 5th respondents to remove the entries relating to the encumbrance over the property in old survey number 165 and new survey number 795/6 situated at Thoppampatti Village, Kathagoundan Valasu, Palani Taluk, Dindigul District and registered the same within the time stipulated by this Court.

For Petitioner : Mr.A.R.Kannappan

For Respondents : Mr.M.Murugan, GA,

ORDER

The prayer in this writ petition is for a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings issued by the 1st respondent in Na.Ka.No.1591/A1/2018 dated 23.05.2018 and quash the same and consequently, direct the 4th and 5th respondents to remove the



entries relating to the encumbrance over the property in old survey number 165 and new survey number 795/6 situated at Thoppampatti Village, Kathagoundan Valasu, Palani Taluk, Dindigul District and registered the same within the time stipulated by this Court.

2. Heard Mr.A.R.Kannappan, learned counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate appearing for the respondents.

3.The petitioner, in order to register the sale in respect of the land at old Survey No.165, corresponding new Survey No.795/6, situated at Thoppampatti Village, Kathagoundan Valasu, Palani Taluk, Dindigul District , has made a request to the 1st respondent for registration, which has been rejected through the impugned order dated 23.05.2018, stating that the land in question claimed to be the property of the petitioner, according to the HR& CE Department, stands in the name of the temple and therefore unless No objection certificate is obtained from the temple authorities i.e. HR & CE Department, registration cannot be undertaken. Challenging the said impugned order dated 25.03.2018, this writ petition has been filed.

4.The learned counsel appearing for the petitioner submits that the land has already been subdivided and the document shows that it stands only in the name of the petitioner. When that being so, the refusal order made by the first respondent in registering the document in question is palpably wrong.

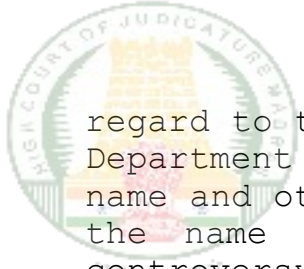
5.However, the learned Government Advocate appearing for the respondents, on the other hand, on instructions, would submit that, though as per the Adangal Register, the sub divided property at Survey No.795/6 stands in individual name as Tiled house, the instructions given by the respondents, according to the learned Government Advocate, would reveal that as per the other Revenue Records, it stands in the name of the temple.

6.The learned Government Advocate would further submit that, if at all, this kind of controversy is to be resolved, a thorough enquiry has to be conducted by the 1st respondent. In this regard, the learned Government Advocate has relied upon the following decision of this Court reported in **2017 (3) CTC 135 - Sudha Ravi Kumar v. The Special Commissioner & Commissioner, HR & CE Department.**

7.By relying upon the said decision, the learned Government Advocate would submit that, in view of the controversy, let the 1st respondent have an enquiry and based on which, let him take a decision and accordingly, the parties can act upon.

8.I have heard the said submissions made by both the parties.

9.As has been rightly pointed out by the learned Government Advocate for the respondents, since there was a controversy with



regard to the name appeared in the concerned document of the Revenue Department as one document i.e. Adangal stands in the individual name and other document as claimed by the respondents, it may be in the name of HR & CE Department and in order to resolve this controversy, the first respondent has to conduct an enquiry and he has to pass orders on merits, of course, after giving opportunity to both sides.

10. In that view of the matter, this Court is inclined to pass the following order, by disposing this writ petition:-

"That the respondents, especially the first respondent is hereby directed to conduct an enquiry with regard to the grievance of the petitioner as to whether the subject land belongs to the petitioner or the ownership or claim of the HR & CE Department is sustainable or not and accordingly a decision can be taken by the first respondent and an order to that effect shall be passed and based on such order to be passed by the first respondent after giving reasonable opportunity of being heard to both the petitioner as well as the HR & CE Department, the parties can act upon and accordingly, if the petitioner is ultimately entitled to get registration of the document, he can approach the concerned registration authority to get it registered. The aforesaid exercise of deciding the issue by the first respondent after completing the enquiry shall be undertaken, within a period of eight weeks from the date of receipt of a copy of this order."

11. With this observation and direction, this Writ Petition is disposed of.

Sd/-

Assistant Registrar (RTI)

/ True Copy /

Sub Assistant Registrar (CS-)

To

1. The District Registrar,
O/o. The District Registrar,
Palani, Dindigul District.
2. The Sub Registrar,
Keeranoor,
Dindigul District.
3. The Commissioner,
HR & CE Department,
<https://hcservices.ecourts.gov.in/hcservices/>
Dindigul, Dindigul District.



4. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Dindigul, Dindigul District.

5. The Tahsildar,
O/o the Taluk Office,
Palani, Dindigul District.

+1 CC to M/s.SPL GP (SR-69709[F] dated 19/06/2019)

+1 CC to M/s.A.R.KANNAPPAN, Advocate
(SR-69956[F] dated 20/06/2019)

Order made in
W.P. (MD) No.13065 of 2019
Dated: **18.06.2019**

ES/02.07.2019/4P/8C