



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.4380 of 2019

and

W.M.P. (MD) Nos.3485, 3486 and 3487 of 2019

1.P.Ganesh Pandiyan

2.S.Sekar

3.S.Padma

... Petitioners

Vs

1.The District Registrar (Administration),
O/o.the District Registrar Office,
Madurai North,
Rajakabiram,
Othakadai,
Madurai, Madurai District.

2.The Sub Registrar,
O/o.The Sub Registrar,
Melur,
Madurai District.

3.The Executive Officer,
Arulmigu Kalyana Sundareswaran Temple,
Melur,
Madurai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the second respondent in his proceedings in ந.க.எண்.43/2018 dated 16.03.2018 and consequential impugned order passed by the first respondent in his proceedings in ந.க.எண்.844/ஆ1/2018 dated 26.03.2018 and quash the same as illegal and consequently to direct the respondents to pass suitable orders by conducting proper enquiry within the period that may be stipulated by this Court.

For Petitioner : Mr.Ajmal Khan
Senior Counsel
for M/s. Ajmal Associates

For R1 and R2 : Mr.M.Murugan,
Government Advocate

**ORDER**

Heard the learned senior counsel appearing for the writ petitioners, the learned standing counsel for the third respondent and the learned Government Advocate for the respondents 1 and 2.

2. The writ petitioners had purchased the subject property vide a registered sale deed dated 21.11.2017. Now they propose to deal with the said property. But then, the third respondent has raised an objection stating that the subject property belongs to the third respondent temple. Therefore, the Registering Authority has taken a stand that the transaction in which the petitioners intend to engage themselves will not be permitted. The said communication dated 16.03.2018 issued by the Registering Authority was impugned by the writ petitioners before the first respondent. The first respondent by a communication dated 26.03.2018 sustained the stand of the second respondent by referring to Section 22A(2) of the Registration Act, 1908. These orders are under challenge in this writ petition.

3. I am of the view that the impugned orders will have to be set aside in view of the decision of the Hon'ble Division Bench reported in **2017 (3) CTC 135** in the case of **M. Subramanian vs. The Sub Registrar and another.**

"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"

4. Respectfully following the decision of the Hon'ble Division Bench, this Court directs the second respondent to hold a summary enquiry involving the writ petitioners on one hand and the third respondent on the other. The second respondent will follow the directions laid down by the Hon'ble Division Bench.

5. This writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

+1 CC to M/s. SPL GP (SR-58660[F] dated 03/04/2019)

+1 CC to M/s. AJMAL ASSOCIATES, Advocate (SR-58727[F] dated 03/04/2019)

+1 CC to M/s. S. MANOHAR, Advocate (SR-58881[F] dated 04/04/2019)

W.P. (MD) No. 4380 of 2019

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KK/SAR/22.04.2019/ 3P- 4C