



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

W.P. (MD) Nos.8687, 8825, 8826, 8921, 14264 and 18916 of 2018

and

W.M.P. (MD) Nos.8149, 8150, 8255, 8256, 8257, 8258, 8323, 8324, 12928, 12929, 16752 and 16753 of 2018

C.GANDHI	... Petitioner in WP(MD). 8687/ 2018
CHANDRAMATHI	... Petitioner in WP(MD). 8825/ 2018
K.S.KOTHANDARAJA,	... Petitioner in WP(MD). 8826/ 2018
P.K.RAMKUMAR,	... Petitioner in WP(MD). 8921/ 2018
P.RAJESHKUMAR	... Petitioner in WP(MD). 14264/ 2018
P.MUTHUCHAMY	... PETITIONER IN WP(MD). 18916 / 2018

Vs. -

1 THE ASSISTANT COMMISSIONER

HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BOARD,
VIRUDHUNAGAR DISTRICT

2 THE EXECUTIVE OFFICER,

HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BOARD,
ARULMIGHU VETTAI VENKATESAPERUMAL TEMPLE,
RAJAPALAYAM TALUK, VIRUDHUNAGAR DISTRICT

3 THE SUB REGISTRAR,

RAJAPALAYAM, VIRUDHUNAGAR DISTRICT.

..RESPONDENTS 1 TO 3 IN ALL THE CASES

THE COMMISSIONER OF LAND (ADMN.),

CHENNAI. (R4 IS SUO MOTU IMPEADED VIDE COURT ORDER DT.04/03/19.

..RESPONDENT NO. 4 IN WP(MD)No. 8687,

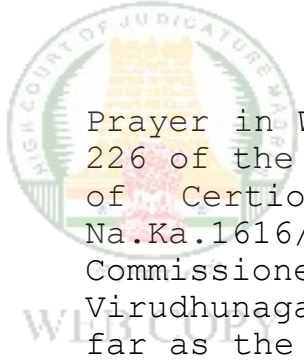
8825,8826,8921,14264 OF 2018 AND

5TH RESPONDENT IN WP(MD)No.18916 OF 2018.

THE TAHSILDAR, RAJAPALAYAM TALUK,

<https://hse.respondents.docx/Reserve/18916>
VIRUDHUNAGAR DISTRICT.

..4TH RESPONDENT IN WP(MD)No.18916 OF 2018



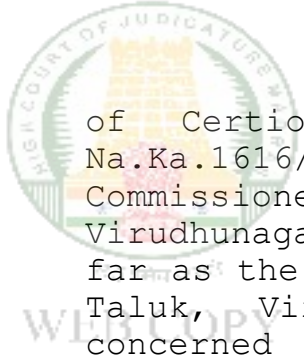
Prayer in WP(MD). 8687/ 2018 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified mandamus calling for the proceedings in Na.Ka.1616/2016/A2 dated 12.06.2017 on the file the Assistant Commissioner, Hindu Religious and Charitable Endowments Board, Virudhunagar District the Respondent No.1 and quash the same in so far as the land in S.No.102/2 (presently S.No.853/13) in Pudupalayam Village, Rajapalayam Taluk, Virudhunagar District bearing to the petitioner is concerned and consequently direct the Respondent No.3 to permit registration of any document pertaining to the land in S.No. 102/2 (presently S.No. 853/13) in Pudupalayam Village, Rajapalayam Taluk, Virudhunagar District.

Prayer in WP(MD). 8825/ 2018 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue Writ of Certiorarified Mandamus calling for the proceedings in Na.Ka.No.1616/2016/A2 dated 12.06.2017 on the file the Assistant Commissioner, Hindu Religious & Charitable Endowment Board, Virudhunagar District, the Respondent No.1 and quash the same in so far as the land in S.No.102/2 (Presently S.No.853/13) in Pudupalayam Village, Rajapalayam Taluk, Virudhunagar District belonging to the petitioner is concerned and consequently direct the Respondent No.3 to permit the registration of any document pertaining to the land in S.No. 102/2 (presently S.NO. 853/13).

Prayer in WP(MD). 8826/ 2018 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the proceedings in Na.Ka.1616/2016/A2 dated 12/06/2017 on the file of the Asst Commissioner, Hindu Religious and charitable Endowments Board, Virudhunagar District the respondent No.1 and quash the same in so far as the land in S.No.102/5F3C (presently S.No.102/42) in Pudupalayam Village, Rajapalayam Taluk, Virudhunagar District belonging to the petitioner is concerned and consequently direct the respondent no.3 to permit registration of any document pertaining to the land in S.No.102/5F3C.....

Prayer in WP(MD). 8921/ 2018 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the proceedings in Na.Ka.1616/2016/A2 dated 12/06/2017 on the file of the Assistant Commissioner, Hindu Religious & charitable Endowments Board, Virudhunagar District, the Respondent No.1 and quash the same in so far as the land in Plot No.21 comprised in S.No.102/4A1A & 102 / 4A1B in pudupalayam village, Rajapalayam Taluk, Virudhunagar District belonging to the petitioner is concerned and consequently direct the respondent no.3 to permit registration of any document pertaining to the land in Plot.No.21 comprised in S.No.102/4A1A & 102 / 4A1B in Pudupalayam Village, Rajapalayam Taluk, Virudhunagar District.

Prayer in WP(MD). 14264/ 2018 : Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ



of Certiorarified Mandamus calling for the proceedings in Na.Ka.1616/2016/A2 dated 12.06.2017 on the file of the Joint Commissioner, Hindu Religious & Charitable Endowments Board, Virudhunagar District, the Respondent No.1 and quash the same in so far as the land in S.No.102/5F3 in Pudupalayam Village, Rajapalayam Taluk, Virudhunagar District belonging to the Petitioner is concerned and consequently direct the Respondent No.3 to permit registration of any document ...

PRAYER IN W.P. (MD) No.18916 of 2018: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the proceedings in Na.Ka.1616/2016/A2, dated 12.06.2017, on the file of the Joint Commissioner, Hindu Religious & Charitable Endowments Board, Virudhunagar District, the respondent No.1 and quash the same.

For Petitioner	: Mr.V.Arun
For Respondents	: Mr.M.Rajarajan
	Government Advocate for R1 & R4
	: Mr.H.Thaiumanarswamy for R2
	: Mr.M.Murugan
	Government Advocate for R3 & R5

COMMON ORDER

The writ petitioners herein are aggrieved by the communication of the Assistant Commissioner, Hindu Religions & Charitable Endowments Board, Virudhunagar District, calling upon the registering authority not to receive any document for registering if they pertain to the lands set out in the impugned communication and that the very same, which is sent to the jurisdictional Tahisldar calls upon the Tahisldar not to issue any patta in respect of the said lands.

2.The learned counsel for the writ petitioners assailed the impugned communication on a host of grounds. As regards the course of action to be adopted by the registering authority before whom the document is presented for registration, the issue has been decided by the Hon'ble Division Bench of this Court in **Sudha Ravi Kumar Vs. The Special Commissioner & Commissioner, H.R & C.E. Department**, reported in **2017 (3) CTC 135**. It set aside the communication of the Hindu Religions & Charitable Endowments Department and issued 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.

WEB COPY

(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."

3. I am of the view that the very same course of action can be adopted in the present case. In view of this matter, the orders impugned in these writ petitions are set aside and the directions given by the Division Bench of this Court as extracted above will be followed by the registering authority.

4. As regards the issuance of patta, I am of the view that when an application is made before the Tahsildar, the Tahsildar will issue notice to all the interested persons before passing the final orders. This would obviously include the temple, which is also making a claim. After hearing both parties, the Tahsildar will pass orders on merits and in accordance with law.



5. These writ petitions are allowed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

SD

ASSISTANT REGISTRAR (AD)

TRUE COPY

WEB COPY

SUB ASSISTANT REGISTRAR (CS)

ias

To:

1. THE ASSISTANT COMMISSIONER,
HINDU RELIGIONS & CHARITABLE ENDOWMENTS BOARD,
VIRUDHUNAGAR DISTRICT.
- 2 THE EXECUTIVE OFFICER,
HINDU RELIGIOUS AND CHARITABLE ENDOWMENTS BOARD,
ARULMIGHU VETTAI VENKATESAPERUMAL TEMPLE,
RAJAPALAYAM TALUK, VIRUDHUNAGAR DISTRICT
3. THE SUB REGISTRAR,
RAJAPALAYAM, VIRUDHUNAGAR DISTRICT.
4. THE TAHSILDAR, RAJAPALAYAM TALUK,
VIRUDHUNAGAR DISTRICT.
5. THE COMMISSIONER OF LAND (ADMN.), CHENNAI.

1CC TO MR. Y. PRAHASH, ADVOCATE SR 55187
1CC TO MR. A.V. ARUN, ADVOCATE SR 55189

KK

8.4.2019

5P/8C

**W.P. (MD) Nos. 8687, 8825, 8826,
8921, 14264 and 18916 of 2018
19.03.2019**