

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.4802 of 2020

and

WMP No.5679 of 2020

R.P.Rajenthiran

..Petitioner

.v.

- 1.The District Registrar,
Tamil Nadu Registration Department,
Namakkal District,
Namakkal.
- 2.The Sub Registrar,
Komarapalayam Sub Registration Office,
Komarapalayam Taluk,
Namakkal District 638 183.
- 3.Shirdi Saibaba Charitable Trust,
Rep.by the Managing Trustee,
Mr.D.G.Baskaran,
40B/33, Kavalur Street,
Komarapalayam 638 183,
Namakkal District.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2nd respondent herein not to register any document in the name of Supplemental Trust Deed or Amendment Trust Deed in relation to Shirdi Saibaba Charitable Trust, pending disposal of the Scheme Suit filed under Section 92 of C.P.C. before the Principal District & Sessions Court, Namakkal in I.A.No.154 of 2018 in UN.O.S. of 2018 by considering the representation of the petitioner dated 10.02.2020.

For Petitioner : Mr.S.Senthil

For R 1 & R 2 : Mr.M.Tamilzharasan
Additional Government Pleader

O R D E R

This writ petition has been filed for the issue of a writ of mandamus, directing the 2nd respondent not to register any document that is submitted by the 3rd respondent Charitable Trust, pending disposal of the Scheme Suit that has been filed under Section 92 of CPC., before the Principal District and Sessions Court, Namakkal.

2.The case of the petitioner is that the petitioner and 13 others have filed a Scheme Suit under Section 92 of CPC., before the Principal District Sessions Court, Namakkal, seeking for framing of a Scheme for the public trust and for other directions. An application seeking leave to institute the suit in I.A.No.154/2018, was filed and the same is pending. In the meantime, since steps were taken to register the supplemental trust deed, representation was given to the 2nd respondent not to register any document. Apprehending that the 2nd respondent will not consider the representation, the present writ petition has been filed before this Court seeking for appropriate directions.

3.The learned counsel for the petitioner submitted that the present trustees of the 3rd respondent Trust are going against the very object of the Trust and even without convening a meeting, a document has been created as if, a meeting was conducted and the trust deed was amended. This trust deed is now sought to be registered before the 2nd respondent. The learned counsel for the petitioner submitted that without the leave being granted by the Court below, no interim orders can be sought for by the petitioner and therefore, left with no other alternative, the present writ petition has been filed before this Court.

4.Per contra, the learned Additional Government Pleader appearing on behalf of the 1st and 2nd respondents submitted that a writ of mandamus cannot be issued forbearing an authority from doing his statutory duties. The learned Government Advocate submitted that even on an earlier occasion, a writ petition was filed before this Court, challenging the document that was registered by the 3rd respondent and the said writ petition is pending. While so, one more writ petition has been filed before this Court to restrain the 2nd respondent from registering any documents. According to the learned Government Advocate, the writ petition is liable to be dismissed on the ground of maintainability.

5.This Court has carefully considered the submissions made on either side and the materials available on record.

6.This Court finds a lot of force in the submission made by the learned Additional Government Pleader. As rightly submitted by the learned Government Advocate, a writ of mandamus cannot be issued against an authority, who is exercising his statutory function. There is already a dispute pending between the parties by way of a Scheme Suit instituted by the petitioner along with 13 others. The leave petition is pending from the year 2018 onwards. Since, the leave has not been granted, the petitioner is not in a position to obtain any interim orders before the Civil Court . Therefore, the present writ petition has been filed before this Court.

7.This Court is not inclined to entertain this writ petition since the relief claimed by the petitioner pertains to a dispute regarding a public trust and would also tantamount to restraining the 2nd respondent from exercising his statutory duty. At the best, this Court can only direct the Principal District and Sessions Court, Namakkal to dispose of the leave application within a time limit fixed by this Court.

7.In view of the above, this writ petition is dismissed and there shall be a direction to the Principal District and Sessions Court, Namakkal, to dispose of I.A.No.154/2018, within a period of four weeks from the date of receipt of copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

KP

To

- 1.The District Registrar,
Tamil Nadu Registration Department,
Namakkal District, Namakkal.
- 2.The Sub Registrar,
Komarapalayam Sub Registration Office,
Komarapalayam Taluk,
Namakkal District 638 183.
3. The Principal District and Sessions Court,
Namakkal.

+1cc to Government Pleader SR.No.19276

W.P.No.4802 of 2020

LN (CO)

<https://hcservices.courts.gov.in/hcservices/>
GMR (21/05/2020)