



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2020

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.1464 of 2020

P.Varadharajan

: Petitioner

vs.

1.The Special Commissioner and Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai -14.

2.The Joint Commissioner,
Sri Renganatha Swami Temple,
Hindu Religious and Charitable
Endowment Department,
Srirangam, Trichy.

3.The Sub Registrar,
Sub Registrar Office,
Srirangam, Trichy.

: 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 records relating to the third respondent proceedings in Refusal No.RFL/Srirangam/7/2020, dated 10.01.2020 and quash the same and consequently, to direct the third respondent to register the document of the property belonging to the petitioner with respect to all piece and parcel of land and building on Plot No.C24, New Door No.21, Old Door No.3, Rajaji Street, Renganagar Colony, Vellithirumutham Village, Sri Ranganam, Trichy comprised in Survey No.750 (750D), Municipal Ward No.II, currently numbered as Ward B, Block No.56, T.S.No.2614 in T.D.No.1029 without insisting No Objection Certificate from the second respondent.

For Petitioner :Mr.K.Mahendran

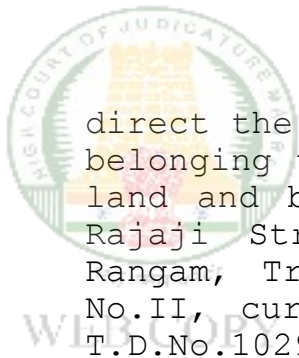
For R1 and R3 :Mr.M.Murugan
Government Advocate

For R2 :Mr.M.Saravanan

ORDER

This Writ Petition is filed for issuing a Writ of Mandamus to quash the proceedings of the third respondent Refusal No.RFL/Srirangam/7/2020, dated 10.01.2020 and consequently, to

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direct the third respondent to register the document of the property belonging to the petitioner with respect to all piece and parcel of land and building on Plot No.C24, New Door No.21, Old Door No.3, Rajaji Street, Renganagar Colony, Vellithirumutham Village, Sri Rangan, Trichy comprised in Survey No.750 (750D), Municipal Ward No.II, currently numbered as Ward B, Block No.56, T.S.No.2614 in T.D.No.1029 without insisting No Objection Certificate from the second respondent.

2.The brief facts that are necessary for the disposal of this Writ Petition are as follows:

3.Originally the land in S.No.750 in Vellithirumutham Village, Sri Rangan, Trichy, belonged to the Sri Ranganathaswamy Temple. However, it is stated that the said land was acquired by the Government under the provision of Land Acquisition (Central) Act, for the purpose of a Society, which was functioning under the name and style of "Srirangan Co-operative Building Society Limited". An extent of 3600 sq.ft comprised in Plot No.C24 was sold in favour of one K.V.Sesha Iyengar by a registered document of sale deed, dated 16.06.1953. The petitioner states that after the death of K.V.Sesha Iyengar, his legal heirs sold the property to one P.V.Pangajam in the year 1977 and the said P.V.Pangajam executed a settlement deed in favour of one Dr.P.Srinivasan. After successive alienations, patta was also transferred in the name of Dr.P.Srinivasan. Thereafter, Dr.P.Srinivasan executed a settlement deed in favour of his younger brother, Mr.P.Varadarajan, the petitioner herein. The petitioner has executed a sale deed in favour of Mr.R.Pothiraj, the registration of which was refused by the third respondent by the impugned order.

4.Since the land was originally belonged to Sri Ranganathaswamy Temple, it appears that there were some issues earlier and the petitioner's predecessor-in-interest was constrained to file a Writ Petition before this Court in W.P.(MD)No.22753 of 2019 for issuing a Writ of Mandamus to direct the third respondent to register the document in respect of the property belonging to the writ petitioner. This Court, after holding that the temple has no semblance of right and that the land was acquired long back by the Society, issued a direction to the Registering Authority to register the document, if the second respondent did not give any objection within three weeks from the date of receipt of a copy of that order. It was, thereafter, the petitioner acquired the property by way of a settlement deed, dated 25.11.2019, When the petitioner has gone before the Sub Registrar to register the sale deed, the Registrar refused to register the document on the ground that the property is the property of Sri Ranganatha Aranganathar Swami Temple, Sri Rangan and that therefore, the document can be registered only after getting No Objection Certificate from the second respondent. This order is put to challenge in the present Writ Petition.



5. The Honourable Division Bench of this Court in the case of **Sudha Ravi Kumar and another vs The Special Commissioner and Commissioner, HR & CE Department, Chennai and others**, reported in **2017 (3) CTC 135**, directed the authorities to follow a procedure in the following lines:

"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.

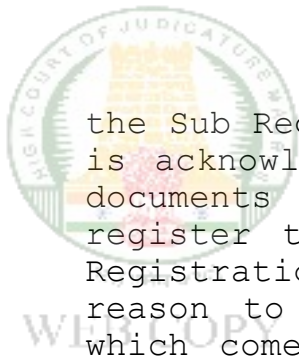
(iii) If the objections raised under Section 22-A of the Act by the religious institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a writ petition seeking cancellation of the registration or for any other relief or 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.

6. Mere claim by the HR & CE Department is not sufficient for
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the Sub Registrar to refuse the document. Unless the title of temple is acknowledged by a Civil Court or the temple produce sufficient documents to prove its lawful title, the Register cannot refuse to register the document presented by individual. Section 22(A) of Registration Act prescribes only when the Registering Authority has reason to believe that the property belongs to any institution, which comes under the purview of HR & CE Act. When the previous document was registered without any objection, it is improper to refuse to register the document on the ground of objection raised by H.R. & C.E. Department.

7.The learned Counsel for the second respondent has filed a counter affidavit stating that the second respondent has no objection for the petitioner to execute a deed of conveyance or to present the document for registration, as the temple admits the title of petitioner. In other words, the temple does not claim any right or title over the property, which is the subject matter of the present Writ Petition. It is stated by the second respondent that the temple authorities have intimated the concerned Sub Registrars about particulars of immovable properties belonging to Temple. The learned Counsel for the second respondent submitted that the second respondent has also undertaken the job of identifying the lands as of now, which have been acquired from the temple long back for the society. The learned Counsel for the second respondent further stated that the temple will also submit No Objection Certificate for registering those lands, for which the temple does not claim any right or title.

8.It is made clear that in a case, where the temple claims title to a property, the temple should give the list of document of title to *prima facie* satisfy the registering officer that the temple has lawful claim against the property referred to in such objection. After satisfying that the properties belongs to the temple as per the old revenue records or that the temple has a lawful claim against any strangers, the third respondent is expected to entertain such objection. When further objection is received from the HR & CE Department, the third respondent is directed to hold an enquiry after giving opportunity to the person, who present the document for registration and others, who are interested, including HR & CE Department and take a decision in accordance with law. The procedure directed by this Court referred to above shall be followed by the Registering Officer in all cases in future. Since there is no objection by the temple or H.R.&C.E. Department and the absolute title of petitioner is admitted, the Writ Petition deserves to be allowed.

9.As a result, this Writ Petition is allowed and the impugned order passed by the third respondent, dated 10.01.2020 is set aside and the third respondent is directed to register the document of the property in question, which was presented by the



petitioner, within a period of six weeks from the date of receipt of a copy of this order after complying with other formalities. No costs.

Sd/
Assistant Registrar

/True copy/

/02/2020

Sub Assistant Registrar

cmr

To

1.The Special Commissioner and Commissioner,
Hindu Religious and Charitable
Endowment Department,
Chennai -14.

2.The Joint Commissioner,
Sri Renganatha Swami Temple,
Hindu Religious and Charitable
Endowment Department,
Srirangam, Trichy.

3.The Sub Registrar,
Sub Registrar Office,
Srirangam, Trichy.

Copy to:

The Inspector General of Registration,
Santhome, Chennai.

+1 CC to M/s.M.SARAVANAN, Advocate (SR-5920[F] dated 12/02/2020)

+1 CC to M/s.K.MAHENDRAN, Advocate (SR-5984[F] dated 12/02/2020)

+1 CC to M/s.SPL.GP (SR-6139[F] dated 13/02/2020)

W.P. (MD)No.1464 of 2020
12.02.2020

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