



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.02.2020
CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD)No.4286 of 2020

V.Uma

: Petitioner

vs.

1.The District Registrar,
District Registrar Office,
District Collector Office Campus,
Dindigul, Dindigul District.

2.The Sub Registrar,
Sub Registrar Office,
Chinnalapatti, Dindigul District.

3.The Joint Commissioner,
Office of the Joint Commissioner,
H.R. & C.E. Department,
Ellis Nagar, Madurai.

4.The Assistant Commissioner,
H.R.&C.E. Department,
Dindigul.

5.The Executive Officer,
Arulmigu Sri Pathrakaliamman Temple
and Arulmigu Sri Meenakshiamman Temple,
Ambathura Village, Aathur Taluk,
Dindigul District.

6.The Thakkar / Manager,
Arulmigu Sri Pathrakaliamman Temple
and Arulmigu Sri Meenakshiamman Temple,
Ambathura Village, Aathur Taluk,
Dindigul District.

: 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 pertaining to the impugned refusal check slip passed by the second respondent herein in his proceedings in RFL/Chinnalapatti/4/2020, dated 21.02.2020 and quash the same as illegal and consequently, to direct the second respondent to register the document presented by the petitioner with No.TP/86888154/2020, dated 19.02.2020.



For Petitioner : Mr.S.Sarvagan Prabhu
For R1, R2 : Mr.V.Anand
Government Advocate
For R3, R4 and R6 : Mr.V.R.Shanmuganathan
For R5 : Mr.Muthugeethaiyan

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ORDER

This Writ Petition is filed challenging the impugned order passed by the second respondent refusing to register the document and to direct the second respondent to register the document presented by the petitioner.

2.The petitioner states that he has purchased the property in Ambathurai Village, Aathur Taluk, Dindigul measuring to an extent of 780 sq.ft, in S.No.14/1A by a registered sale deed in 2009. The petitioner claims title from earlier documents and contended that the H.R.& C.E Department has no right or title in any parcel of the land in S.No.14, except an extent of 10 cents in S.No.14/1A1. However, based on the objections raised by the H.R.& C.E Department, it appears that the Registrar has passed mechanical orders in many cases that the document can be presented for registration only after getting No Objection Certificate from the H.R. & C.E. Department. Challenging the same, the present Writ Petition is filed.

3.It is to be remembered that the registering authority while exercising his functions under the provisions of the Registration Act cannot act beyond the power or jurisdiction conferred on him by the Statute. Section 22 (A) of the Registration Act reads as follows:

"22-A. Refusal to register certain documents .- Notwithstanding anything contained in this Act, the registering officer shall refuse to register any of the following documents,

namely:-

(1) instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease,-

(i) belonging to the State Government or the local authority or Chennai Metropolitan Development Authority established under section 9-A of the Tamil Nadu Town and Country Planning Act, 1971;

(ii) belonging to, or given or endowed for the purpose of, any religious institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 is applicable;

(iii) donated for Bhoodan Yagna and vested in the Tamil Nadu State Bhoodan Yagna Board established under section 3 of the Tamil Nadu Bhoodan Yagna Act, 1958; or



(iv) of Wakfs which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995, unless a sanction in this regard issued by the competent authority as provided under the relevant Act or in the absence of any such authority, an authority so authorised by the State Government for this purpose, is produced before the registering officer.

(2) Instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such land from planning authority concerned: Provided that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as house site.

4. While interpreting Section 22-A of the Registration Act and power of Registrar, 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**, has 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.



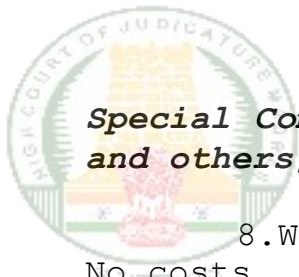
(v) We further direct that if the deed has already been registered without there being any objection by the religious institution under Section 22-A of the Act, the document shall be returned to the parties concerned leaving it open for the religious institution to approach either the High Court under 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."

5. Following the said judgment, I had also dealt with similar case and held that the Registrar, exercising the power under Section 22(A) of the Act, can refuse to register the document, only if the registrar satisfies that the property in respect of which the document is produced before the registrar for registration belonged to or endowed for the purpose of religious institutions, to which Tamil Nadu Hindu Religious and Charitable Endowment Act is applicable.

6. In the present case, by the impugned order, it is stated that the petitioners cannot present the document for registration for want of No Objection Certificate from H.R. & C.E. Department in respect of land in S.No.14. However, there is no requirement for the registering authority to insist No Objection Certificate from H.R. & C.E. Department, whenever, an objection is raised or a representation is submitted without specifying the extent and area with reference to four boundaries. The fourth respondent has no legal obligation to give No objection Certificate, even if the property does not belong to H.R.&C.E. Department. Hence, under the guise of getting No Objection Certificate from the H.R.&C.E. Department, the petitioners cannot be deprived of their valid right.

7. Having regard to the fact that the second respondent has not followed the procedure prescribed in law, as directed by the Honourable Division Bench, the impugned order is unsustainable and accordingly, the impugned order, dated 20.03.2018 passed by the second respondent is quashed. It is open to the second respondent to send a communication about the presentation of document for registration to the fourth respondent. Upon such intimation being give by the registering authority or by the petitioner, the second respondent shall register the document, in case, no objection is received from the fourth respondent. The fourth respondent is directed to produce all the records to show that the property belongs to the temple or endowed for some other purpose. In case, an objection is received from the H.R.&C.E. Department, the same shall be dealt with by the second respondent, as it was directed by 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.**

8. With the above directions, this Writ Petition is allowed.
No costs.

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Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

1. The District Registrar,
District Registrar Office,
District Collector Office Campus,
Dindigul, Dindigul District.

2. The Sub Registrar,
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Dindigul District.

+1 CC to Mr.M.MUTHUGEETHAYAN, Advocate (SR-9201[F] dated 28/02/2020)

+1 CC to SPL.GP (SR-9608[F] dated 02/03/2020)

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