



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2020

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

W.P. (MD)No.9860 of 2020

and

W.M.P. (MD)Nos.8835, 8836 and 8837 of 2020

M/s.S.N.Baskararaja Nadar and Sons,
represented by its Partner,
K.Sivarajan

... Petitioner

Vs.

1.The Assistant Commissioner,
H.R.&C.E Department,
Virudhunagar,
Virudhunagar District.

2.The Sub-Registrar-Joint II,
Virudhunagar,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records related to the impugned proceedings of the 1st respondent dated 13.07.2018 and 08.05.2020 both in Na.Ka.No.1271/1994-1/Aa3 and the consequential proceedings of the second respondent dated 05.08.2020 in check slip No.01/2020 and quash the same insofar as the schedule mentioned property is concerned and consequently direct the second respondent to forthwith register the sale deed dated 05.08.2020 submitted by the petitioner in respect of the schedule mentioned property.

For Petitioner: Mr.N.Dilipkumar

For R1 : Mr.Sricharan Rangarajan,
Additional Advocate General
Assisted by
Mr.K.P.Narayanakumar,
Special Government Pleader

For R2 : Mr.K.Sathiyasingh
Additional Government Pleader

**ORDER**

Heard the learned counsel for the petitioner and Mr.Sricharan Rangarajan, learned Additional Advocate General, assisted by Mr.K.P.Narayanakumar, learned Special Government Pleader, for the respondents.

2.The writ petitioner purchased the property in question from one Nallathambi for valuable consideration. The said Nallathambi had in turn purchased the property from one AVT.Ganesan, through certain registered sale documents. The property originally belonged to an endowment. The case of the petitioner is that, the said endowment had moved the District Court by filing O.P.No.2 of 1985 and obtained permission from the District Judge, Ramanathapuram at Madurai, by order dated 04.09.1985.

3.The grievance of the petitioner is that when the sale deed was presented for registration before the second respondent, the second respondent, citing the objection raised by the first respondent, declined to register the document and issued the impugned check slip. The petitioner has, therefore, questioned not only the impugned check slip but also the communication issued by the Assistant Commissioner, Hindu Religious and Charitable Endowments Department, Virudhunagar. The first respondent had also filed a detailed counter affidavit and called for the dismissal of the writ petition.

4.The learned counsel appearing for the writ petitioner reiterated all the contentions set out in the affidavit, filed in support of this writ petition. He also filed notes of submissions.

5.I am of the view that without considering the various contentions urged by the learned counsel for the petitioner, this writ petition can be disposed of on a short ground. As rightly urged by the learned Additional Advocate General appearing for the respondents, this Court cannot undertake an investigation into disputed facts. The Hon'ble Division Bench in the decision reported in 2017 (3) CTC 135 in the case of *Sudha Ravi Kumar Vs. The Special Commissioner and Commissioner, HR & CE Department, Chennai*, while dealing with similar issue, 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.

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(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 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 refused to register the document acting on the objections raised by a Religious Institution under Section 22-A of the Registering 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."

6.I am of the view that the case on hand can also be dealt with on the same lines. In this view of the matter, the impugned communication issued by the second respondent is quashed and the matter is relegated to the file of the second respondent. The second respondent will follow the procedure laid down by the Hon'ble Division Bench in the aforesaid decision.

7.I make it clear that the petitioner is very much placed on a neutral ground. In other words, before the registering authority, the petitioner is placed on the one side, while the HR & CE Department is placed on the other. The second respondent will not treat the communication of the HR&CE Department as a binding communication. The HR&CE authority will place all the relevant materials to indicate that they have the right in the subject matter. If after holding a summary enquiry, the registering authority sustains the objection of the HR&CE Department, then the parties will have to move the jurisdictional Civil Court for declaration of title and for obtaining other reliefs.

8.I make it clear that I have not gone into the merits of the matter. The contentions of both parties are left fully open. If on the other hand, the registering authority sustains the stand of the writ petitioner, then as a consequence, the document in question will have to be registered. The registering authority will conclude the entire exercise within a period of eight weeks from the date of receipt of a copy of this order.



9.This Writ Petition is party allowed with the aforesaid directions. No costs. Consequently, connected miscellaneous petitions are closed.

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SCHEDULE OF PROPERTY

விருதுநகர் பத்மாவட்டம், விருதுநகர் ஐராண்டி 2 நிர் சட்டி, விருதுநகர் தாலுகா, விருதுநகர் முனிசிபல் டவுன் சர்வே வார்டு எண்.1, பளாக் எண்.5, மதுரை ரோட்டில் (கச்சேரி ரோட்டில்) ஷை ரோட்டின் கிழக்கில் (பண்டிய பேருந்து நிலையம் சந்திப்பு ரோடு முதல் CSI குடியேறியவான் கிறித்தவ ஆலயம் சந்திப்பு ரோடு வரையுள்ள மதுத்) டி.எஸ் எண்கள் 170, 183, 185 ன் பாகம், 189 to 193க்கு,மேற்படி டி.எஸ் எண்களில் ஏற்பட்ட ஸ்டிரீவின்படி தற்போதைய டி.எஸ் எண்கள் 183/1A to 183/1E வரையும்,183/2G to 183/2N வரையும், 183/2Tன் பாகம்,183/3, 184/1, 184/2, 184/3ம், 185/1, 185/2ன் பாகம், டி.எஸ் எண்கள் 173 to 182 ம், டி.எஸ் எண்கள் 193/3B1ன் பாகம் & 193/4 இவைகளில் அமைந்துள்ள

நிலத்திற்கு நான்குமால் அளவுகள் விபரம்:

வடக்கே : தென்வடல் 13 அடிஅகலத்தில் கிறிமேல் நீளமுள்ள புழக்கத்திலுள்ளபாறையும்,T.S.No.194நகராட்சிசந்திரி தேக்க தொட்டிவளாகமும்.

தெற்கே : டி.எஸ் எண்கள் 185/2 ன் பாகம்,184/3ன் பாகம், 183/2Nன் பாகம், 183/2Tன் பாகம் & 193/3B1ன் பாகத்தில்A.V.T.கணேசன் மற்றும் இவர்களது சொத்தும், எனது (O.N.P.நல்லதம்பி) சொத்தும்.

கிழக்கே : டி.எஸ் எண்194 நகராட்சி சந்திரவளாகம்.

மேற்கே : தென்வடல் மதுரை ரோடு, (கச்சேரிரோடு)

ஷை மாலுக்குள்ளா, இரு தாக்குகளில் மேல்புறமுள்ள 1வது தாக்கு

வடதலைகிறிமேலடி : 114 (நூற்று பதினான்கு)

தென்தலைகிறிமேலடி : 114 (நூற்று பதினான்கு)

கிழ்தலைதென்வடலடி : 68 ½ (அறுபத்துஎட்டரை)

மேன்தலைதென்வடலடி : 72 ½ (எழுபத்து இரண்டேழுக்கால்)

அளவுகளுள்ள 8051 ½ சதுரஅடி பரப்பளவுள்ள நிலமும்.



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இதன் கீழ்ப்படிவமுள்ள 2வது தாக்கு

வடதலைகிழமேலடி : 42 (நாற்பத்து இரண்டு)

தென்தலைகிழமேலடி : 30 (முப்பது)

கீழ்தலைதென்வடலடி : 62½ (அறுபத்துஇரண்டரை)

மேல்தலைதென்வடலடி : 68½ (அறுபத்துஎட்டரை)

அளவுகளுள்ள 2358 சதுரஅடிபரப்பளவுள்ள நிலமும், ஆக இருதாக்குமனை

நிலம் 10409 ¼சதுரஅடி (967.042 சதுர மீட்டர்) (72.28 குழி) பரப்பளவுள்ள

மனை நிலம்: சமஸ்தமும்.

Sd/-

Assistant Registrar(CRL SIDE)

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/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Assistant Commissioner,
H.R.&C.E Department,
Virudhunagar,
Virudhunagar District.

2.The Sub-Registrar-Joint II,
Virudhunagar,
Virudhunagar District.

+1 CC to M/s.N. DILIPKUMAR, Advocate (SR-18191[F] dated
28/09/2020)

W.P. (MD)No.9860 of 2020

and

W.M.P. (MD) Nos.8835, 8836 and 8837 of 2020

25.09.2020

SCR (CO)

SDS (06.10.2020) 5P 4C