



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.08.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.10330 of 2020

K.Sathishkumar @ Madurai Veeran

... Petitioner

Vs.

1.The Commissioner,
Hindu Religious and Charitable and Endowments,
Nungambakkam,
Chennai-600 034.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments,
28/29, Pandian Nagar,
Dindigul.

3.The Executive Officer,
Idumban Thirukkivil,
Palani Bypass Road,
Sivagiripatti,
Palani,
Dindigul District.

4.The Sub Registrar,
Sub-Registrar Office,
Palani,
Dindigul District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the third respondent to issue No Objection Certificate to the petitioner to register any document with the fourth respondent in respect of S.No.844/3 in Palani Town, Dindigul District.

For Petitioner : Mr.N.Mohan

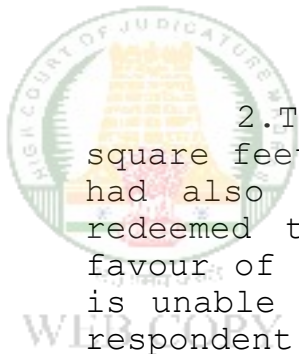
For R1 to R3 : Mr.K.P.Narayanakumar
Special Government Pleader

For R4 : Mr.Srinivasa Ragavan

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The petitioner had purchased the property measuring 2653 square feet in T.S.No.643/3 in Palani on 14.12.2015. The petitioner had also later mortgaged the same with a nationalised bank and redeemed the same and thereafter, the property was mortgaged in favour of a third party. He wants now to redeem the same. But he is unable to do so on account of the objection raised by the third respondent. The Registering Authority has directed the petitioner to obtain No Objection Certificate from the third respondent in order to cancel the encumbrance. The petitioner had since moved the third respondent. Since no action has been taken, this Writ Petition came to be filed.

3.The petitioner's counsel draws my attention to the decision of the Hon'ble Division Bench reported in **2017 (3) CTC 135 (Sudha Ravi Kumar and Ors. vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department and Ors.)**. The Hon'ble Division Bench in the decision had issued the following directions:-

"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."

4.What applies to registering of a sale deed can be analogically applied to the case on hand. The fourth respondent will undertake an enquiry on similar lines and dispose of the matter on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

5.The Writ Petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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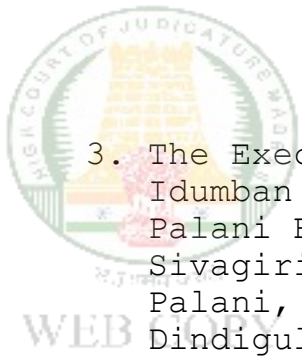
Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1. The Commissioner,
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Dindigul District.

+1 CC to SGP (SR-15418[F] dated 31/08/2020)

W.P. (MD) No.10330 of 2020

28.08.2020

NR (18.09.2020) 4P 6C