



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2020

CORAM

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

W.P. (MD)No.15983 of 2019

and

W.M.P. (MD)No.12683 of 2019

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- 1.Sugandhi Pandeeswari
- 2.Angannan
- 3.Vijaya Raghavan
- 4.Prema
- 5.Pawun Thai
- 6.S.Vijaya
- 7.Maheswari
- 8.N.Kalaivani

... Petitioners

vs.

1.The District Registrar,
Office of the District Registrar,
Dindigul, Dindigul District.

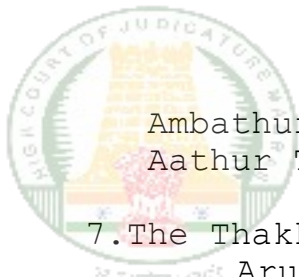
2.The Sub Registrar,
Office of the Sub Registrar,
Chinnalapatti, Dindigul District.

3.The Commissioner,
Office of the Commissioner,
H.R. & C.E. Department,
Chennai - 34.

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

5.The Assistant Commissioner,
Office of the Assistant Commissioner,
H.R. & C.E. Department,
Dindigul.

6.The Executive Officer,
Arulmigu Sri Pathrakaliamman Temple
and Arulmigu Sri Meenakshi Amman Temple,



Ambathura Village,
Aathur Taluk, Dindigul District.

7.The Thakkar / Manager,
Arulmigu Sri Pathrakaliamman Temple
and Arulmigu Sri Meenakshi Amman Temple,
Ambathura Village,
Aathur Taluk, Dindigul District.

... Respondents

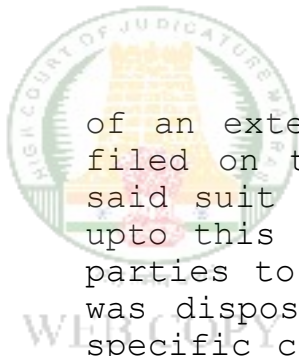
Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the second respondent, dated 20.03.2018 in Na.Ka.No.30/Saa.pa./C.patti/2018 and quash the same and issue consequential direction to the second respondent to register any documents presented by the petitioners relating to their properties comprised in S.Nos.14/1A2, 14/1B, 14/4, 14/7, 14/10, 14/11, 14/12 and 14/13 respectively on due compliance of other legal norms relating to their respective properties which are previously comprised in S.No.14 without seeking "No Objection Certificate" from the H.R. & C.E Department.

For Petitioners	:Mr.S.Loganathan
For R1 and R2	:Mr.V.Anand
	Government Advocate
For R3, R4, R5 and R7	:Mr.V.R.Shanmuganathan
For R6	:Mr.Muthugeethaiyan

O R D E R

The petitioners state that they are the owners of the property comprised in S.Nos.14/1A2, 14/1B, 14/4, 14/7, 14/10, 14/11, 14/12 and 14/13. It is the case of the petitioners that the property comprised in this petition is the absolute property of the petitioners and that the seventh respondent herein has no manner of right or enjoyment to any portion of the property of the petitioners. It is also stated that separate patta was given to the temple in respect of S.No.14/1A1 for an extent of 10 cents and the right, title and interest of the temple is confined only in respect of 10 cents, which is available in S.No.14/1A1.

2.Originally, there was a dispute in respect of an extent of 7 acres 84 cents in S.No.14 in Ambathurai Village, Aathur Taluk, Dindigul District. When the temple claims certain rights in respect



of an extent of 4 acres, a civil suit in O.S.No.302 of 1961 was filed on the file of the District Munsif Court, Dindigul and the said suit ended against the HR & CE Department and the matter came upto this Court in S.A.No.168 of 1965. It is also stated that the parties to the second appeal filed a compromise memo and the appeal was disposed of in terms of the said compromise memo. It is the specific case of the petitioners that the temple is the owner only to an extent of 10 cents out of 7 acre 84 cents and that the said extent is also demarcated on ground.

3.The learned Counsel for the petitioners submitted that the said land measuring to an extent of 10 cents on the southern corner of 7 acres 84 cents is also encroached by a third party and that the temple has not taken any steps to remove the encroachments and to take possession of the property to be under the control of the temple. It is in these circumstances, the petitioners submitted that the fourth respondent has given its objections before the Registering authority by a communication, as if they have objection in respect of the entire extent in S.No.14, even though the holding and title of the fourth respondent is confined only to an extent of 10 cents.

4.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.

5. 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."

6.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 or endowed for the purpose of religious institutions, to which Tamil Nadu Hindu Religious and Charitable Endowment Act is applicable.

7.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 lands 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.

8.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.

9.With the above directions, this Writ Petition is allowed.



No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

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To

- 1.The District Registrar,
Office of the District Registrar,
Dindigul, Dindigul District.
- 2.The Sub Registrar,
Office of the Sub Registrar,
Chinnalapatti, Dindigul District.
- 3.The Commissioner,
Office of the Commissioner,
H.R. & C.E. Department, Chennai - 34.
- 4.The Joint Commissioner,
Office of the Joint Commissioner,
H.R. & C.E. Department,
Ellis Nagar, Madurai.
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- 7.The Thakkar / Manager,
Arulmigu Sri Pathrakaliamman Temple
and Arulmigu Sri Meenakshi Amman Temple,
Ambathura Village,
Aathur Taluk, Dindigul District.
- 8.The Tahsildar,
Office of the Revenue Tahsildar,
Aathur Taluk, Dindigul District.



+1 CC to M/s.M.MUTHUGEETHAYAN, Advocate (SR-7186[F] dated 19/02/2020)

+2 CC to M/s.S.LOGANATHAN, Advocate (SR-7201[F] dated 19/02/2020)

+1 CC to M/s.SPL.GP (SR-7259[F] dated 20/02/2020)

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(1/2)

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