



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD).No.22347 of 2019
and W.M.P. (MD).No.19114 of 2019

P.Sukumar

.. Petitioner

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 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,
Ambathurai Village,
Aathur Village, Dindigul District.

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

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus calling for records relating to the impugned order of the 2nd respondent, dated 27.06.2019 in RFL/Chinnalapatti/11/2019 and



quash the same and issue consequential direction to the 2nd respondent to register the documents presented by the petitioner relating to property comprised in S.No.14/8.

For Petitioner

: Mr.S.Loganathan

For Respondents

: Mr.V.Anand, for R1 & R2

Government Advocate

Mr.V.R.Shanmuganathan for R3 & R4

Special Government Pleader

Mr.M.Muthugeethayan for R5

No Appearance for R6

ORDER

This writ petition is filed for issuing a Writ of Certiorarified Mandamus calling for records relating to the impugned order of the 2nd respondent, dated 27.06.2019 in RFL/Chinnalapatti/11/2019 and quash the same and issue consequential direction to the 2nd respondent to register the documents presented by the petitioner relating to property comprised in S.No.14/8.

2.By the impugned order, the second respondent refused to register the document presented by the petitioner for registration on the ground that the property belonged to H.R & C.E. Department.

3.The brief facts that are necessary for the disposal of this writ petition are as follows:

The petitioner states that on the basis of judgment of Civil Court, which ended in S.A.No.168 of 1965, the petitioner is entitled to the property in S.No.14. It is the case of the petitioner that a compromise decree was passed as per the instructions given by the Commissioner, H.R. & C.E. Department, Chennai, in S.A.No.168 of 1965. The H.R. & C.E. Department is entitled to claim title only in respect of an extent of 10 cents in S.No.14/1A1. The other lands comprised in other subdivisions in S.No.14 was sold out to various persons through subsequent sale deeds and it is further stated that such individuals are in possession and enjoyment of the property. The petitioner is the owner of property in S.No.14/8.

4.The learned counsel appearing for the 6th respondent fairly submitted that this Court earlier on two occasions have considered the claim of H.R. & C.E. Department and found that the H.R. & C.E. Department has the right, title and interest and possession over an extent of 10 cents in S.No.14/1A1. The property now sought to be registered by the petitioner is not the property of H.R. & C.E. Department as recognized by the Civil Court as well as the earlier judgment of this Court in writ petitions filed by



other owners in S.No.14. In such circumstances, this Court is of the view that the H.R. & C.E. Department has no legal right to obstruct the registration of the document submitted by the petitioner in relation to S.No.14/8. The learned counsel appearing for the 6th respondent is unable to produce any record to show that the H.R. & C.E. Department could legitimately claim title in respect of other portions of S.No.14 except S.No.14/1A1.

5.Though it is settled that the Sub Registrar is not competent to decide the question of title, the sub Registrar in exercise of his power under Section 22 A of the Act may refuse to register the document belonged to Government or H.R. & C.E. Department or local body etc., found in Section 22A of Act. When a document is sought to be registered in respect of the property claimed to be the property of H.R. & C.E. Department, the Registrar should consider the *prima facie* title in favour of H.R. & C.E. Department. In other words, unless the Sub Registrar satisfied himself on the basis of documents produced before him, that the property belongs to H.R. & C.E. Department or the State Government or local Authority etc., the Sub Registrar has no jurisdiction to refuse to register the document. Section 22 (A) states that the Sub Registrar shall refuse to register the documents relating to the transfer of immovable property belonged to State Government or Local authority or other for the purpose of any religious institution to which the H.R. & C.E. Act is applicable. Without satisfying the title in favour of the State or Local Body or H.R. & C.E. Department, the Sub Registrar cannot refuse to register the document. Mere claim that the property belonged to the State or any authority found in Section 22 A does not authorise the Registrar to refuse registration. It is open to the Sub Registrar to refer registration only when he has reasons to believe that the property belonged to the State or Local Body or H.R. & C.E. Department.

6.In ***Sudha Ravikumar and another Vs. Special Commissioner & Commissioner, H.R & C.E Department***, reported in **2017 (3) CTC 135**, this Court has issued direction 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 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 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.

7. It is unnecessary to this Court to examine further in this case, since it is admitted before this Court that H.R. & C.E. Department or the 6th respondent has no title in respect of any land in S.No.14/8. In the said circumstances, the writ petitioner is entitled to succeed.

8. Hence, this writ petition is allowed and the impugned order of second respondent, dated 27.06.2019 is quashed. The second respondent is directed to accept the document presented in respect of property in S.No.14/8 for registration and shall



consider the registration in accordance with law. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

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/ /2020

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 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.

+1 CC to MR.M.MUTHUGEETHAYAN, Advocate (SR-4659[F] dated
04/02/2020)

+1 CC to MR.S.LOGANATHAN, Advocate (SR-4623[F] dated 04/02/2020)

W.P. (MD) .No.22347 of 2019

04.02.2020

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