



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2020

CORAM:

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

W.P. (MD)No.7032 of 2017

and

W.M.P. (MD)Nos.5552 and 5553 of 2017

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Selvam

... Petitioner

Vs

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Opposite to West Gopuram,
Madurai.

2.The Sub-Registrar,
Sub Registrar Office,
Natham,
Dindigul District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records and quash the impugned order passed by the 1st respondent in Na.Ka.No.10018/2016/E2 dated 24.02.2017 on the ground that the same is arbitrary, illegal and without jurisdiction consequently directing the 1st respondent to issue the "No Objection Certificate" in respect of the Resurvey Nos.66/1 and 66/3 situated at Aavatchippatti, Natham Taluk, Dindigul District to the petitioner within a time frame to be stipulated by this Court.

For Petitioner : Mr.M.Ramu

For Respondents : Mr.V.R.Shanmuganathan
Special Government Pleader for R1
Mr.V.Anand for R2

O R D E R

Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the first respondent and the learned counsel appearing for the second respondent.

2.The petitioner's grievance is that he is unable to sell the petition mentioned property. The petitioner in his affidavit had traced his title also. Eventhough the petitioner made several attempts to have the property alienated, the second respondent declined to receive the sale document. The petitioner was informed that it was because of the stand taken by the first respondent



herein. Thereupon, the petitioner moved the first respondent. The first respondent by the impugned order dated 24.02.2017 has informed the petitioner that the petition mentioned property is belonging to Arulmighu Marriamman temple, Natham. Aggrieved by the aforesaid stand of the first respondent as reflected in the impugned communication, this writ petition has been filed.

3. After hearing the learned counsel on either side, I am of the view that the matter has to be disposed in the light of the direction issued by the Hon'ble Division Bench in the decision reported in **2017 (3) CTC 135, [Sudha Ravi Kumar v. The Special Commissioner & Commissioner, H.R & C.E. Department]**. The Hon'ble Division Bench in the aforesaid decision had 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.*

(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."

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4.The petitioner herein is directed to present the sale documents to the second respondent for registration. Thereafter the second respondent will follow the procedure laid down by the Hon'ble Division Bench.

5.The writ petition is disposed of on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar(CS)

Ias

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 Joint Commissioner,
Hindu Religious and Charitable Endowment,
Opposite to West Gopuram,
Madurai.

2.The Sub Registrar,
Natham,Dindigul.

W.P. (MD)No.7032 of 2017
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