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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.2030 of 2021

N.R.Nagamalai

... Petitioner

Vs.

1. The District Collector,
Collectorate Complex,
Fort Main Road,
Salem - 636 001.
2. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.
3. Deputy Inspector General of Registration,
Salem, Salem District.
4. The Sub Registrar,
Jalakandapuram,
Edappadi Taluk,
Salem District.
5. The Joint Commissioner,
HR & CE, Salem.
(R5 suo motu impleaded by this Court vide order
dated 24.06.2021 made in W.P.No.2030/21).

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the fourth respondent Sub Registrar to registrar documents such as sale agreement, sale deed, mortgage deed and other deeds of conveyance with respect to the lands comprised in S.Nos.527/2B, 523/4B7 and 523/4B2, Iruppali Village, Edappadi Taluk, Salem District, as and when executed and presented either by the petitioner or his agent for registration after following the procedure prescribed for registration of documents under the Registration Act and the Tamil Nadu Registration Rules.



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For Petitioner : Mr.P.Mani
For Respondents : Mr.Yogesh Kannadasan,
Government Advocate

O R D E R

(The case has been heard through video conference)

Writ petition has been filed seeking a direction to the fourth respondent Sub Registrar to register the document presented by the petitioner for registration in respect of the lands comprised in S.Nos.527/2B, 523/4B7 and 523/4B2, Iruppali Village, Edappadi Taluk, Salem District.

2. According to the petitioner he is the owner of the land measuring an extent of 2.74 acres comprised in S.Nos.527/2B, 523/4B7 and 523/4B2, Iruppali Village, Edappadi Taluk, Salem District. The petitioner purchased the said land from one Mr.M.P.Sundarajan and registered the same in the year 2003, thereafter he is in possession and enjoyment of the same and paying necessary taxes to the Government. Subsequently, the petitioner wanted to sell the property and entered into a sale agreement and presented the sale agreement before the fourth respondent Sub Registrar for registration. However, the fourth respondent refused to register the same on the ground that the first respondent District Collector by an order 13.08.2012 has directed the fourth respondent Sub Registrar not to register any document for the lands comprised in the above said lands belongs to Arulmigu Kailasanathar Temple, Tharamangalam, Salem District. Based on that objections, the Sub Registrar refused to register the document presented by the petitioner. In such circumstances, the present writ petition has been filed.

3. Earlier, notice was ordered to the respondents and the Joint Commissioner, HR & CE, Salem was also suo motu impleaded as party respondent and the learned Government Advocate was directed to get instructions.

4. According to the learned counsel for the petitioner, if at all any objection raised by the HR & CE department, the Sub Registrar is supposed to conduct an enquiry after giving an opportunity to the petitioner and the objector HR & CE Department and after perusing the documents he is supposed to pass orders and without any such enquiry, the Sub Registrar refused to register the document. In support of his said



contention, the learned counsel relied upon a Division Bench judgment of this Court in Sudha Ravi Kumar v. The Special Commissioner & Commissioner, H.R & C.E. Department reported in 2017 (3) CTC 135.

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5. Per contra, Mr.Yogesh Kannadasan, learned Government Advocate appearing for the respondents would submit that the land belongs to HR & CE department and the Temple records also clearly shows the same. In such circumstances, the HR & CE department raised objections and considering the same, the Sub Registrar has rightly refused to register the document.

6. I have considered the rival submissions and also perused the records carefully.

7. Perusal of the records, it could be seen that there is a dispute between the petitioner and the HR & CE Department regarding the title of the property and the HR & CE Department, has submitted its objections and considering the same the Sub Registrar refused to register the document. If any objection raised by a religious institution claiming title over the property, the Sub Registrar is expected to conduct an enquiry, after issuing notice to the parties and after considering the materials available on record and after hearing the contesting parties, the Sub Registrar has to pass order. But, in the instant case, the Sub Registrar, without issuing any notice whatsoever and without conducting any enquiry mechanically refused to register the document. In this respect, it is useful to refer to paragraphs 25 and 26 of the Division Bench judgment of this Court in Sudha Ravi Kumar v. The Special Commissioner & Commissioner, H.R & C.E. Department reported in 2017 (3) CTC 135 and the same is extracted hereunder:

"25. But this observation of ours shall not be construed that it is our conclusion that ryotwari patta issued to the ryot concerned is the final adjudication relating to the title for the property. We wish to clarify that the final adjudication regarding the title to the property can be had only before a Civil Court. We only say that at the time of registration of the deed, if any objection is made by the religious institution under Section 22-A of the Act, the registering authority shall issue notice afford opportunity to the parties, apply his mind and only from the materials available before him, if he is satisfied that the land belongs to the religious institution or given or endowed to the religious institution, then, he shall refuse to register such deed.



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26. 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



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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...'

8. Considering the above circumstances, the fourth respondent Sub Registrar is directed to issue notice to the petitioner as well as the HR & CE department and after considering the objections and documents, if any, pass suitable orders on merits and in accordance with law either to register or refuse to register the document. The above exercise should be conducted within a period of eight weeks from the date of receipt of a copy of this order. The writ petition is disposed of on the above terms. No costs.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
Collectorate Complex,
Fort Main Road,
Salem - 636 001.
2. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.
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Salem, Salem District.
4. The Sub Registrar,
Jalakandapuram,
Edappadi Taluk,
Salem District.



5. The Joint Commissioner,
HR & CE, Salem.

+1c to Mr.P.Mani, Advocate Sr.33262

+1cc to the Government Pleader Sr.33520

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