



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.1525 of 2012

N.Govindaraji

.. Petitioner

Vs

1. The Sub Registrar,
Sowcarpet, Chennai - 600 079.
2. The Commissioner,
Hindu Religious Charitable Endowment,
Nungambakkam, Chennai - 600 034.
3. Head Clerk/Public Relation Officer,
Joint Commissioner Office,
Hindu Religious Charitable Endowment,
Nungambakkam, Chennai - 600 034.
4. The Trustee
Ega Valli Amman Koil,
No.14, Amman Koil Compound,
Kozhi Market, Broadway,
Chennai - 600 011.

(R4 impleaded as per order
dated 28.3.2014 in MP.2/2012)

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the order (check memo) dated 10.1.2012 passed by the 1st respondent in un-registered Sale Deed of the petitioner and quash the same and directing the 1st respondent to register the Sale Deed of the petitioner with reference to the Superstructure of property alone therein bearing Old Door No.1A/Old Door No.14/ New Door No.31, Egavalli Amman Koil Compound, Amman Koil Street, comprised in Survey No.55251, Pethu Naickenpet, George Town, Chennai - 600 001.

For Petitioner

: Mr.P.Sampath
For Mr.M.Chidambaram

For Respondents 1 to 3

: Mr.Richardson Wilson
Government Counsel



O R D E R

The prayer sought for herein is for a writ of certiorarified mandamus calling for the records relating to the order (Check memo) dated 10.1.2012 passed by the first respondent in un-registered Sale Deed of the petitioner and quash the same and direct the first respondent to register the Sale Deed of the petitioner with reference to the Superstructure of property alone therein bearing Old Door No.1A/Old Door No.14/ New Door No.31, Egavalli Amman Koil Compound, Amman Koil Street, comprised in Survey No.5525/1, Pethu Naickenpet, George Town, Chennai - 600 001.

2.The case of the petitioner is that, in respect of property in Old Door No.1A/Old Door No.14/New Door No.31, Egavalli Amman Koil Compound, Amman Koil Street, comprised in Survey No.5525/1, Pethu Naickenpet, George Town, Chennai - 600 001, the petitioner presented a Sale Deed dated 09.01.2012 to the first respondent to register the same. However, the first respondent, by order dated 10.01.2012, has refused to register the same on the ground that, the property in question belongs to a Temple and therefore, as the prohibition issued under Section 22A of the Registration Act, the land belongs to the Temple cannot be registered. Challenging the said order, the present writ petition had been filed.

3.At the time of admission, rule nisi was issued and for all these years, this writ petition is pending before this Court.

4.When this writ petition is taken up for final hearing today, though submissions were made on behalf of the petitioner by Mr.P.Sampath, learned counsel appearing for the petitioner that, the land in question does not belong to the Temple, therefore, that the reason stated in the impugned order in refusing to register the document is untenable, Mr.Richardson Wilson, learned Government Counsel appearing for the respondents 1 to 3 would submit that, whether the land in question is a Temple land or not, cannot be resolved by this Court in this writ proceedings. Therefore, against this kind of refusal order passed by the first respondent Sub Registrar concerned, a statutory appeal under Section 72 of the Registration Act, 1908 can very well be filed by the petitioner within a period of 30 days and without filing the same, since the writ petition has been straight away filed by the petitioner, on that ground itself, this writ petition can be dismissed, he contended.

5.I have considered the said submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.



6.No doubt, there has been an appeal provision under Section 72 of the Registration Act, 1908 (in short 'the Act'), under which, whatever the order passed by the Sub Registrar refusing to register the document except on the ground of denial of execution, appeal can be filed. In respect of this case, since the refusal has been made by citing the reason that, the land in question is a Temple land, as per the, prohibition under Section 22-A, the document in question cannot be registered. As against the said order passed by the first respondent Sub Registrar, the petitioner can very well file an appeal under Section 72 of the Act to the District Registrar concerned.

7.The learned counsel appearing for the petitioner, in this context, would submit that, since the writ petition had been entertained in the year 2012 and had been kept pending for all these years, at this juncture, if the writ petition is dismissed on the ground that, the petitioner had not exhausted the appeal remedy by filing appeal to the District Registrar under Section 72 of the Act, at this juncture, the petitioner cannot approach the District Registrar by filing an appeal because there has been a limitation of 30 days alone provided.

8.I have considered the difficulty expressed by the learned counsel appearing for the petitioner.

9.At the same time, as rightly pointed out by the learned Government Counsel appearing for the respondents 1 to 3, the issue as to whether the land in question, which is the subject matter of the sale deed, whether, belongs to the Temple or not cannot be resolved in the writ proceedings.

10.In this context, the reason stated by the first respondent in refusing to register the document can very well be gone into by the Appellate Authority i.e., the District Registrar before whom if appeal is filed with supporting documents to substantiate the case of the petitioner, that can very well be gone into by the District Registrar and an order to that effect can be passed, as against which, if need arises the petitioner can workout his remedy.

11.In that view of the matter, since the writ petition having been entertained long years back and had been kept pending for nearly about 10 years, at this juncture, the petitioner cannot be deprived of for want of filing the appeal within 30 days limitation, therefore, this Court feels that the District Registrar concerned can be directed to entertain the appeal if it is filed by the petitioner within a shortest possible period without insisting the limitation and to decide the same on merits. If that kind of direction is issued, this Court feels



that, the issue can be given a quietus, where, the rights of the petitioner would be protected.

12. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

That the petitioner is given liberty to prefer appeal under Section 72 of the Registration Act, 1908 to the District Registrar concerned as against the refusal order made by the first respondent dated 10.01.2012 with regard to the Sale Deed dated 09.01.2012 which was presented by the petitioner for registration to the first respondent. Such appeal shall be filed by the petitioner, within a period of two weeks from the date of receipt of a copy of this order, to the District Registrar concerned and within such period if the appeal is filed by the petitioner it shall be entertained by the District Registrar concerned and after issuing notice to both parties and after allowing the parties to put forth their case by giving a reasonable and fair opportunity of being heard, a decision can be made in the appeal by the District Registrar concerned within a period of three months thereafter.

13. With this observation and direction, this Writ Petition is disposed of. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

Sgl/MR

To

1. The Sub Registrar,
Sowcarpet, Chennai - 600 079.
 2. The Commissioner,
Hindu Religious Charitable Endowment,
Nungambakkam, Chennai - 600 034.
 3. Head Clerk/Public Relation Officer,
Joint Commissioner Office,
Hindu Religious Charitable Endowment,
Nungambakkam, Chennai - 600 034.
- +1CC to Mr.M.Chidambaram, Advocate, Sr.No.34481

W.P.No.1525 of 2012

KSM (CO)

K.RK. (17.09.2021)