IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P. NO. 37761 OF 2003

Gurugnanasambandar Mission
Charitable Trust,
rep. by its Trustee Sri-la-Sri
Shanmuga Desika Ganansambanda
Paramacharya Swamigal, Dharmapuram
Mayiladuthurai Taluk,
Nagapattinam District.

...Petitioner

vs

1. The Inspector General of Registration
and Chief Controlling Revenue Authority,
Santhome High Road,
Chennai – 600 028.

2. The District Registrar,
Mayiladuthurai,
Nagapattinam District.

3. The Joint Sub-Registrar No.1,
Mayiladuthurai,
Nagapattinam District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents relating to the order of the 1st respondent in D.Dis.No.9938/P1/2003 dated 06.11.2003 confirming the order of the 2nd respondent in RC.No.19/B/2003 dated 02.01.2003 and quash them and direct the respondents herein to forthwith release to the petitioner the gift deed dated 29.11.2002 bearing P.No.131 of 2002 on the file of the 3rd respondent after completing the registration formalities without insisting upon payment of alleged deficit stamp duty and penalty.

For Petitioner : Mr.K.Doraisami, Senior Counsel
for Kandavadivel Doraisami

For Respondents : Mr.Richardson Wilson
Government Advocate

ORDER

The Writ Petition has been filed seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the respondents relating to the order of the 1st respondent in D.Dis.No.9938/P1/2003 dated 06.11.2003 confirming the order of the 2nd respondent in RC.No.19/B/2003 dated 02.01.2003 and quash them and direct the respondents herein to forthwith release to the petitioner the gift deed dated 29.11.2002 bearing P.No.131 of 2002 on the file of the 3rd respondent after completing the registration formalities without insisting upon payment of alleged deficit stamp duty and penalty.

2. The petitioner is the Adheenams catering to the religious charitable needs of Hindu Saivites. It was established by Gurugnana Sambandar during 16th century. It is headed by successive Adheenakarthars. It has also established and opened Gurugnana Sambandar Mission Trust, which was created under a Trust Deed dated 16.06.1983 vide registered document No.40 of 1983. According to the petitioner, it is a Charitable Trust coming under the definition contained in Section 6(5) of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The petitioner/Trust was established Gurunasambandar Mission Matriculation Educational Institution in Mayiladuthurai. The land belongs to the petitioner comprised in T.S.No. 869 ad-measuring 1 acre and 1916 sq.ft of vacant site and also land comprised in T.S.No.893 ad-measuring 2 acres and 7086 sq.ft gifted by way of Gift Deed dated 29.11.2002 in favour of the Gurunasambandar Mission Matriculation Educational Institution. It was presented before the third respondent for registration on 29.11.2002. The petitioner claimed the benefit under G.O.Ms.903, dated 04.09.1986.

3. As per G.O., the Charitable Endowments coming under the purview of Section 6(5) of Hindu Religious and Charitable Endowments Act, any gift deed executed in favour of Hindu/Muslim is coming under the Hindu Religious and Charitable Endowments and Wakf a nominal value of such properties be fixed at Rs.100/- only for the purpose of levy of stamp duty and registration. The second respondent rejected the request for the reason that the guideline value of the property is Rs.9,03,53,835/- and the petitioner is liable to pay the stamp duty of Rs.54,21,199-/ and penalty.

4. Aggrieved by the same, the petitioner preferred an appeal before the first respondent and the first respondent by an order dated 06.11.2003 dismissed the appeal for the reason that the petitioner/Trust is not coming under the purview of the Hindu Religious and Charitable Endowments Act and it is not controlled by the Hindu Religious and Charitable Endowment Department. That apart, the property is not settled in favour of the Hindu Religious Endowments Board. Therefore, G.O.Ms. No.903 is no application to the case on hand. Both the orders are under challenge in this Writ Petition.

5. According to the Section 6(5) of the Hindu Religious and Charitable Endowments Act, the property given or endowed for the benefit of Hindu community for the maintenance of objects such as rest-houses, choultries, patasalas, schools and colleges, houses for feeding the poor and institutions for the advancement of eduction, medical relief and public health or other objects of like nature and includes the charitable endowments. Though, the object of the petitioner/ Trust, for the purpose of which the property is given to the petitioner/Trust, may be considered as a Charitable Endowment. Though charitable endowment is defined in the Act, according to Section 1(3) of the Act, it applies only to Hindu public religious institutions and endowments including the incorporated Dewaswomsand unincorporated Deveswoms and not to Charitable Endowments. Since the petitioner/Trust is not coming under the purview of Hindu Religious and Charitable Endowments Act and G.O.Ms.No.903 is not applicable to the petitioner/Trust. It is very clear that the concessional levy of stamp duty is applicable only in respect of deed of settlement in favour of institution coming under Hindu Religious and Charitable Endowments Act. Therefore, the

respondents 1 and 2 rightly rejected the request of the petitioner and directed the petitioner to pay deficit stamp duty with penalty.

6. However, Mr.K.Doraisami, the learned Senior Counsel submitted that the petitioner and the Trust are one and the same only to establish Gurunasambandar Mission Matriculation Education Institution, a gift deed was executed. Therefore, the petitioner seeks permission to withdraw the said document for registration.

7. Considering the said submission made by the learned Senior Counsel appearing on behalf of the petitioner, the Writ Petition is dismissed. However, the petitioner is at liberty to return back the settlement deed which is pending vide document No.131of 2002 on the file of the third respondent by filing appropriate application before the third respondent. On receipt of the same, the third respondent is directed to consider the same and return the document No.131 of 2002 after cancelling the pending document. It is made clear that the petitioner is permitted to get back the settlement deed without registration, it is needless to say that the petitioner need not pay any stamp duty and penalty. No costs.

Sd/-
Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

Lpp

To

1. The Inspector General of Registration
and Chief Controlling Revenue Authority,
Santhome High Road,
Chennau – 600 028.

2. The District Registrar,
Mayiladuthurai,
Nagapattinam District.

3. The Joint Sub-Registrar No.1,
Mayiladuthurai,
Nagapattinam District.

+1cc to M/s.Muthumani Doraisami, Advocate, S.R.No.37521

+1cc to the Government Pleader, S.R.No.37730

W.P. No. 37761 of 2003

PMK(CO)
RLP(05/10/2021)