



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R. MAHADEVAN

Writ Petition No.14678 of 2010

1.Marammal
2.Vellaimmal
3.Rajamani
4.Santhanam

...Petitioners

Versus

1. The Sub-Registrar
Thondamuthur
Coimbatore Sub-District
Coimbatore District

2. The Assistant Commissioner
HR and CE Department
Coimbatore.

...Respondents

(R2 suo motu impleaded by this Court
vide order dated 27.06.2018 made in
W.P.No.14678 of 2010)

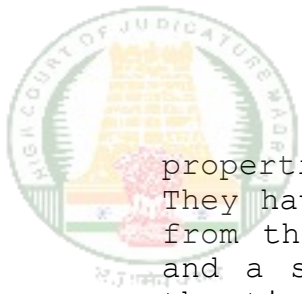
Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to register the pending sale deeds 134 and 135 of 2007 in respect of the lands in Survey No.812/4A patta No.999, Alandurai Village, Thondamuthur Sub-District, Coimbatore and release the sale deeds.

For Petitioners	:	Mr. K.S. Gnanasambandan
For Respondents	:	Mr.Stalin Abimanyu Government Advocate

ORDER

This writ petition is filed to issue a Writ of Mandamus, directing the 1st respondent to register the pending sale deed Nos.134 and 135 of 2007 in respect of the lands in Survey No.812/4A, patta No.999, Alandurai Village, Thondamuthur Sub-District, Coimbatore and release the sale deeds.

2. According to the petitioners, after the death of their father, the petitioners are in possession and enjoyment of the



properties situate at Alandurai Village, Coimbatore District. They have executed sale deeds after receiving sale consideration from the purchasers. The property is an agricultural patta land and a stone idol in the property become a place of worship at the time of cultivation. There was no temple in that land. But in the land register, it was wrongly entered as if there was a temple in that land and based on such entries, the 2nd respondent directed the 1st respondent not to register the sale deeds presented by the petitioners without getting permission from HR & CE Department. Aggrieved by the same, the petitioners have come forward with this writ petition for the aforesaid relief.

3. The learned Government Advocate for the respondents filed a counter affidavit, wherein it is inter alia stated that when the petitioners have admitted the existence of the temple in their land, an enquiry has to be conducted to ascertain whether the temple is a public temple or not. According to the learned Government Advocate, in similar circumstance, the Division Bench of this Court, in the judgment in (Sudha Ravi Kumar and another vs. the Special Commissioner and Commissioner, HR and CE Department, Chennai and others) reported in 2017(3) CTC 135, while examining the validity of the provisions contemplated under Section 22A of the Indian Registration Act, directed the Sub-Registrar to conduct enquiry and thereafter, proceed further in a manner known to law. By citing the Division Bench decision of this Court, the learned Government Advocate prayed for similar order to be passed in this writ petition as well.

4. The above said submission has been fairly conceded by the learned counsel for the petitioners.

5. The issue involved in this Writ Petition is no longer res integra as it was decided by a Division Bench of this court by issuing the following directions:-

"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.



WEB COPY

(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.

(vi) Consequently the connected miscellaneous petitions are closed. No costs."

6. In the light of the above decision of the Division Bench of this Court, mentioned supra, the 1st respondent is directed to conduct an enquiry, and pass appropriate orders in the manner known to law, after affording an opportunity of hearing to the petitioners, within a period of eight (8) weeks from the date of receipt of a copy of this order.



7. With the above direction, this writ petition stands disposed of. No costs.

WEB COPY

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kj/rsh

To

1. The Sub-Registrar
Thondamuthur
Coimbatore Sub-District
Coimbatore District
2. The Assistant Commissioner
HR and CE Department
Coimbatore.

+1 CC to The Government Pleader, Sr.No. 34385,34312.

WP No.14678 of 2010

PCH(CO)
LS(08/09/2021)