

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No.4399 of 2021
and WMP.No.4994 of 2021

M/s.D.K.Samy Memorial Christian Service Trust
Rep by its Authorized Signatory
Permanent Trustee Philomina Nathan
Office at No.4/359, Rajiv Nagar
Venkatapuram
Krishnagiri - 635 001. Petitioner

Vs.

1.The District Registrar
Krishnagiri.

2.The Sub Registrar
Joint - II
Krishnagiri.

3.K.H.Franklin Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the first respondent in Mu.Mu.No.2863/Aa1/2020 dated 20.11.2020 and quash the same, and further direction directing the second respondent to register the Exchange Deed in pending document No.P4/2020 dated 24.01.2020 submitted by the petitioner, within a stipulated period fixed by this Court.

For Petitioner : Mr.C.Samivel

For Respondents: Mr.T.M.Pappiah
Special Government Pleader [R1, R2]

ORDER

The exchange deed when presented for registration by the petitioner, was refused to be registered by the District Registrar on the ground that there subsists a registered lease deed for a period of 30 years, which was to expire on 22.11.2043.

2. The learned counsel for the petitioner submitted that the lease deed creates only a limited interest over the property and it does not affect the right of the land owners to deal with the property. Relying on the ratio in N.Ramayee Vs. Sub Registrar [(2020) 8 MLJ 305], the learned counsel submitted that the District Registrar concerned is overstepping his jurisdiction.

3. Heard Mr.T.M.Pappiah, learned Special Government Pleader appearing for respondents 1 and 2.

4. There is merit in the submissions of the learned counsel for the petitioner. Under Section 105 of the Transfer of Property Act, lease is defined only as a transfer of right of enjoyment over the property and it does not affect the title of the landlord. Therefore, the landlord can always deal with his right of ownership over the property. Hence, there cannot be any embargo on the Registering Authority to register any document pertaining to the right of ownership over the property.

5. The second respondent is directed to register the exchange deed, if it is otherwise registrable, within a period of three weeks from the date of receipt of a copy of the order. The writ petition is disposed of in the manner indicated. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

1.The District Registrar
Krishnagiri.

2.The Sub Registrar
Joint - II
Krishnagiri.

+1cc to Mr.C.Samivel, Advocate Sr.No.17535
+1cc to Government Pleader Sr.No.17733

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GPL(CO)
NR 20/04/2021