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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2021

CORAM

THE HONOURABLE MR.JUSTICE V. BHARATHIDASAN

W.P. No.15377 of 2021

S. Renukadevi

...

Petitioner

Vs

1. The Inspector General of Registration,
Santhome High road,
Pattinampakkam,
Chennai- 600 028

2. The Sub-Registrar,
Office of the Sub-Registrar,
Thiruporur,
Chengalpet.

3. The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

...

Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the 2nd respondent to admit and register the sale deed dated 14.07.2021 executed by the petitioner herein and her family members in favour of Sundee Devarajan with respect to vacant land comprised in Survey No.168/3E1A1A1C2A measuring an extent of 4.17.5 Hec.(10.30 Acres) bearing Patta No.467, situated No.108, Pattipulam Village, Thiruporur Taluk, Chengalpet District.

For petitioner

... Mr V.P. Senguttuvel

For respondents

... Mr. Yogesh Kannadasan
Government Advocate

ORDER

This writ petition has been filed seeking a direction to the 2nd respondent to register the sale deed submitted by the petitioner.



2. According to the petitioner, he is the owner of the property in Survey No.168/3E1A1A1C2A, Pattipulam village, Thiruporur Taluk, chengalpet District, to an extent of 4.17.5 Hec. (10.30 Acres). It is a ancestral property of his father one Krishtappa Naicker and after the death of his father, she become the absolute owner of the property. Now, the petitioner wants to sell the property in favour of the third parties and also executed a sale deed in favour of one Sundeeep Devarajan. When they approached the 2nd respondent for registration, the 2nd respondent refused to register the same on the ground that there is an objection by the 3rd respondent/H.R & C.E. Department. Hence, the present writ petition has been filed.

3. The learned counsel for the petitioner would submit that the property is an ancestral property of the petitioner. The petitioner and her family members are in possession and enjoyment of the property for more than 30 years, so far no claim has been made by the H.R. & C.E. Department claiming right over the property. Earlier, a sale agreement executed by the petitioner is also registered by the same Sub-Registrar. Now, when the petitioner wants to register the sale deed, suddenly, the H.R. & C.E. Department is raising objection claiming title over the property. According to the petitioner, if at all there is objection, under Section 22-A of the Registration Act, the 2nd respondent has to conduct enquiry and give opportunity to the petitioner as well as the H.R & C.E. Department to prove the title. Without doing so, the 2nd respondent cannot refuse to register the same. In support of his contention, the learned counsel relied upon a judgment passed by the Division Bench of this Court in the case of Sudha Ravi and another /Vs/ The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department and others reported in 2017(3) CTC 135.

4. The learned Government Advocate appearing for the respondents would submit that since the land belongs to the H.R. & C.E. Department, they raised objection before the Sub-Registrar. Since the objection is pending with the Sub-Registrar/2nd respondent, the 2nd respondent refused to register the same.

5. I have considered the rival submissions and perused the materials available on records carefully.

6. The 2nd respondent/Sub-Registrar refused to register the document only on the ground that there is an objection raised by the H.R. & C.E. Department under Section 22-A of the Act, when the H.R. & C.E. Department raised any objection, the Sub-Registrar has to conduct an enquiry by giving opportunity to the petitioner as well as the H.R. & C.E. Department to establish



the title over the property, considering the same, he can either register the document or refuse to register the same. Without conducting any enquiry, the 2nd respondent/sub-Registrar cannot simply refused to register the document. In this aspect, the Division Bench of this Court in the case of Sudha Ravi and another /Vs/ The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department and others reported in 2017(3) CTC 135, held as follows:

"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 straight away 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. "

and the above said judgment has been followed by this Court in W.P.11338 of 2021.

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7. In the above circumstances, the 2nd respondent is directed to conduct enquiry, after issuing notice to the petitioner as well as the 3rd respondent/H.R. & C.E Department and affording them an opportunity of hearing and pass suitable orders either accepting the document for registration or refusing the same. The above exercise shall be completed within a period of six(6) weeks from the date of receipt of a copy of this order.

8. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Inspector General of Registration,
Santhome High road,
Pattinampakkam,
Chennai- 600 028
2. The Sub-Registrar,
Office of the Sub-Registrar,
Thiruporur,
Chengalpet.
3. The Commissioner,
Hindu Religious and Charitable Endowments Department,
119, Uthamar Gandhi Salai,
Nungambakkam,
Chennai 600 034.

+1cc to Mr.V.P.Sengottuvel, Advocate, S.R.No.36107
+1cc to the Government Pleader, S.R.No.35731, 36280

W.P. No. 15377 of 2021

SV-I(CO)
CB(18/08/2021)