



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2021

CORAM:

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P.Nos.16365 & 16530 of 2019

A. Thangam ..Petitioner in WP.16365/2019
R. Malliga ..Petitioner in WP.16530/2019

Versus

1. The District Registrar
Office of District Registrar,
Guindy, Chennai - 600 032.
2. The Sub Registrar,
Pammal Sub Registrar Office,
Anagaputhur, Chennai - 600 070.
3. The Commissioner, HR & CE Board,
Nungambakkam, Chennai - 600 034.

... Respondents in both
WP.No.17803/2019

[R3 impleaded as per order in
WMP.No.17802/2019 dated 06.08.2019]

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to dispose of the petitioner's representation dated 20.04.2019 made for withdraw the registration of cancellation order dated 27.11.2011 (copy received on 19.12.2018) and to direct the 2nd respondent to execute the registration of the petitioner's sale deed Document Nos.18 and 19 of 1996 respectively.

For Petitioner : Mr.K.Jayakumar
(in both WPs)

For RR1 to 2 : Mr.V.Veluchamy
(in both WPs) Government Advocate.

COMMON ORDER

These writ petitions have been filed for issuance of Writ of Mandamus, to direct the 1st respondent to dispose of the petitioner's representation dated 20.04.2019 made for withdraw



the registration of cancellation order dated 27.11.2011 and for consequential direction to the 2nd respondent to execute the registration of the petitioner's sale deed Document Nos.18 and 19 of 1996 respectively.

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2. The property "Sri Ramalinga Swamyar Samarasa Sanmarga Sabai" situated at Chengalpet M.G.R.District, Saidai Taluk, Village No.87, Anagaputhur Village, comprised in Survey No.226/1 ad-measuring to an extent of 30 cents was originally belonged to the aforesaid "Sabai" and all the Revenue Records stand in its name. The said "Sabai" decided to sell the aforesaid property for development of the said "Sabai" and also its affinity temple "Sri Selvamottai Vinayagar" temple's refurbishment and maintenance expenses based on the resolution dated 04.05.1993. Subsequently, a resolution was passed to appoint sole decision making authority namely Mr.Buthira Veerabhathra Chettiyar on this properties' future subject of sale. Thereafter, the said Buthira Veerabhathra Chettiyar executed a General Power of Attorney in favour of one Mr.G.Dhanapal, dated 26.06.1996 and the same was registered as Doc.No.717 of 1996 on the file of Sub Registrar, Pallavaram. As per the Power of Attorney Deed, the Agent G.Dhanapal, plotted out the said property as residential layout plots and the petitioners have also wanted to purchase the said plots and the said G.Dhanapal agreed to sell the property in Plot No.6 measuring to an extent of 1186 sqft and 227 sqft, a half of the portion of adjacent lane area to the petitioners at the total cost of Rs.12,995/-. On 05.12.1996, the petitioners had paid the entire amount of Rs.12,995/- to Mr.G.Dhanapal to purchase the said plots. Consequently, the said G.Dhanapal executed the sale deeds in favour of them and the same were presented before the Sub Registrar, Pammal, for registration as Doc.Nos.18 and 19 of 1996 and the same have not been released and put on hold from the year 2018. During the hold period from 1996 to 2018, the petitioners and their sons made several attempts to get the registered documents from the Sub Registrar Office. The Sub-Registrar stated that the reason for holding the said documents, because of the petitioners have to get No Objection Certificate from the Hindu Religious and Charitable Endowment (HR&CE), the Board has not issued any certificate to the petitioners. Hence, the Sub-Registrar made a suo motu decision and passed a resolution for registration of cancellation of registered Doc.Nos.18 and 19 of 1996 vide his order dated 27.01.2011 and the same was confirmed in his letter No.358 of 2018, dated 30.11.2018.

3. It is the further case of the petitioners, one of the petitioners husband's brother had also purchased the property in the same layout with same Survey No.226/1 and registered as Document No.20 of 1996 and the same is also kept on hold by the Sub-Registrar Office, Pammal. However, he obtained an order



from the "Hindu Religious and Charitable Endowment" stating that "Sri Ramalinga Swamyar Samarasa Sanmarga Sabai" and its affinity temple "Sri Selvamottai Vinayagar" temple does not come under the "Hindu Religious and Charitable Endowment" and the same was confirmed vide order No.3664/2010/T.N.A.A/dated 20.01.2011 and also the Taluk Inspector issued a Circular No.7/11 dated 06.01.2011. Based on the circular, he executed his registration successfully with the Sub Registrar Office, Pammal, vide Document No.20 of 1996. Subsequently, the petitioners have also approached the HR & CE and obtained the above referred orders through RTI Act, 2005 regarding the property in Survey No.226/1 and as already stated, the petitioners had paid all the money for consideration of the said sale deeds and the Authorities had cancelled the registered documents without the knowledge of the petitioners in spite of showing all the relevant documents to the Authorities. Hence, the petitioners have come forward with the present writ petitions under Article 226 of the Constitution of India.

3. The learned counsel appearing for the petitioners submitted that the petitioners will be satisfied if a direction is issued to the first respondent to consider the petitioner's representation dated 20.04.2019 and dispose of the same within a stipulated time that may be framed by this Court.

4. Counter affidavit filed by the second respondent, wherein it has been stated that the subject matter of the property belongs to the Hindu Religious and Charitable Endowments (HR&CE), therefore, the same was kept pending before the Sub Registrar Office, Pammal. However, the respondent officials had asked the petitioners to produce the No Objection Certificate from the Hindu Religious and Charitable Endowment (HR & CE). Since the petitioner has not produced the same, the respondent officials had refused to register the same and kept pending Document Nos.P18 and 19 of 1996 under Refusal Order dated 27.01.2011. Hence, this court, by order dated 18.10.2010 in W.P.No.6958 of 2010 directed the Commissioner, HR&CE Board, Chennai-600 034, to adjudicate the application of petitioners therein made under Section 34 of the HR&CE Act, and pass orders. Whereas, the petitioner therein A.Pazhani, who has also purchased a house site in the same Survey No.226/1, which has been belonged to the Temple has submitted an application under Right to Information Act, and the Assistant Commissioner (HR&CE), Chennai-600 034, has furnished the information that "Arulmighu Ramalinga Swamiyar Samarasa Sangam" being a small temple, has not been brought under the control of HR&CE and no records with regard to the temple are maintained in their office. The order in W.P.No.8956 of 2013, dated 28.10.2013 held that the said documents were executed by none other than the Trustee of the Devasthanam and since the HR&CE Department



has made it clear that the department has no control over the temple and there is no point in directing the petitioners to obtain No Objection Certificate from the said department.

5. Heard, the learned counsel appearing for the petitioners and the learned Government Advocate appearing for the respondents and perused the materials available on record.

6. Having regard to the limited scope of the prayer that is now sought for in this writ petition before this Court and taking into account the submissions made on either side, the Writ Petition is disposed of, the petitioner is directed to produce all the Revenue Records before the Competent Authorities to prove the ownership in respect of the aforesaid property, subsequently, the respondents 1&2 are hereby directed to scrutinize all the relevant documents pertaining to the aforesaid property stated surpa and thereafter, to consider the petitioner's representation dated 20.04.2019 and pass appropriate orders, on merits and in accordance with law after affording an opportunity of personal hearing to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The District Registrar
Office of District Registrar,
Guindy, Chennai - 600 032.
2. The Sub Registrar,
Pammal Sub Registrar Office,
Anagaputhur, Chennai - 600 070.
3. The Commissioner, HR&CE Board,
Nungambakkam, Chennai - 600 034.

+2cc to Mr.K.Jayakumar, Advocate, S.R.No.53718,53719

+1cc to the Government Pleader, S.R.No.54258

W.P.Nos.16365 & 16530 of 2019

BR(CO)
CT 13/12/2021