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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.08.2021

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

WP.No.16776 of 2019

[Video Conferencing]

J.Kalaivani

... Petitioner

Versus

1. The Inspector General of Registration
Santhome High Court,
Pattinapakkam
Chennai.
2. The District Collector
Tiruppur,
Tiruppur District
3. The Joint Sub Registrar No.II,
Tiruppur
Tiruppur District.
4. The Executive Officer
Arulmigu Visweswara Swamy and Veeraragava Perumal Temple
Easwaran Kovil Street,
Tiruppur
Tiruppur District.

... Respondents

PRAYER : - Writ Petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified Mandamus calling for the records of the order dated 11.01.2019 vide proceedings in Na.Ka.No.29 of 2019 on the file of the third respondent and quash the same and directing third respondent to register and release sale deed daed 11.01.2019 to the petitioner within time bound manner.

For Petitioner : Mr. K.Myilsamy

For Respondents : Mr. Yogesh Kannadasan
Government Advocate



For 4th Respondent : Mrs. G. Sumitra

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ORDER

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with the order dated 11.01.2019 passed by the third respondent/ Sub Registrar, Tiruppur, issued in proceedings in Na.Ka.No. 29 of 2019 and to set aside the same and consequently, direct the said respondent to register and release the sale deed dated 11.01.2019 presented by the petitioner herein.

2. The said Sub Registrar had refused to register the said document on two grounds. Firstly, he wanted a no objection certificate from the Executive Officer, Arulmigu Visweswara Swamy and Veerargava Perumal Temple, Easwaran Kovil Street in Tiruppur. Secondly, the Officer also wanted to know the details about the parent documents which were claim to be missing by the petitioner herein.

3. Let me address the second issue first with respect to the missing of document. There is a circular dated 25.04.2012 which deals with the procedure to be adopted if a party, who presents a document for registration states that the parent document is missing.

4. The learned counsel for the petitioner however states that he had complied with the requisite stipulations. Then it is for him to satisfy the Sub Registrar regarding compliance of the requirements under the said circular.

5. With respect to the first issue, the temple had been impleaded as the fourth respondent herein and they had also filed a counter, title to the lands where the property was situated. It is stated that they had therefore, to protect the property, given necessary objections to the Joint Sub Registrar No.II, Tiruppur/ third respondent.

6. I am quite fortunate that both the learned counsel for the petitioner and the learned counsel for the respondents have presented before me a Judgment of a Division Bench of this Court pronounced on 05.04.2017 in a series of Writ Petitions and which Judgment has also been reported in 2017 (3) CTC 135 [Sudha Ravi



Kumar Vs. The Special Commissioner & Commissioner, Hindu Religious and Charitable Endowments Development, Chennai and others].

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7. In all these Writ Petitions, the issue was also the same, namely, whether the Sub Registrar, before whom a document is presented for registration can lawfully refuse to register it in view of a protest petition filed on behalf of a claimant that the land relating to which the document had been presented belonged to the claimant. After elaborate discussion, the Division Bench held as follows:-

"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.

(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."

8. I would also place a similar direction on the petitioner and the fourth respondent, namely, to appear before the third respondent whenever notice is issued and present their respective documents relating to their respective claims for title and thereafter, the third respondent is directed to consider and pass necessary orders.

9. Let the third respondent conclude the enquiry within a period of six weeks from the date when the document is presented once again by the petitioner, which presentation should again be by following due process by applying online.

10. With the above said direction, this Writ Petition is allowed. No order as to costs.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy//

Sub Assistant Registrar

Vsg

To

1. The Inspector General of Registration
Santhome High Court,
Pattinapakkam
Chennai.
2. The District Collector
Tiruppur,
Tiruppur District.
3. The Joint Sub Registrar No.II,
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4. The Executive Officer
Arulmigu Visweswara Swamy and Veeraragava Perumal Temple
Easwaran Kovil Street,
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Tiruppur District.

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+1cc to Mr.K.Myilsamy, Advocate, S.R.No.40622

+1cc to M/s.G.Sumitra Advocate, S.R.No.40487

+1cc to the Government Pleader, S.R.No.40775

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SR(CO)
SU(01/09/2021)