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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 26.08.2021

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THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P.NO.17695 OF 2021

&

W.M.P.NOS.18861 AND 18863 OF 2021

Y.Kavitha

... Petitioner

.Vs.

1. The Commissioner
HR & CE Department, No.119, Uthamar Gandhi Salai
Nungambakkam Chennai - 600 034
2. The Assistant Commissioner
HR & CE Department, Thiruvallur District
3. The District Registrar
Registration Department, Chennai North
4. The Sub-Registrar
Ponneri Thiruvallur District
5. The Tahsildar
Ponneri Taluk, Thiruvallur District

... Respondents

Writ petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records of the impugned letter issued by the 2nd respondent dated 18.10.2016 bearing Na.Ka.No.1051/2011-12/B2 and quash the same as illegal.

For Petitioner	:	Mr.S.Udhaya Kumar
For Respondents	:	Mr.NRR.Arun Natarajan Government Advocate (HR & CE)

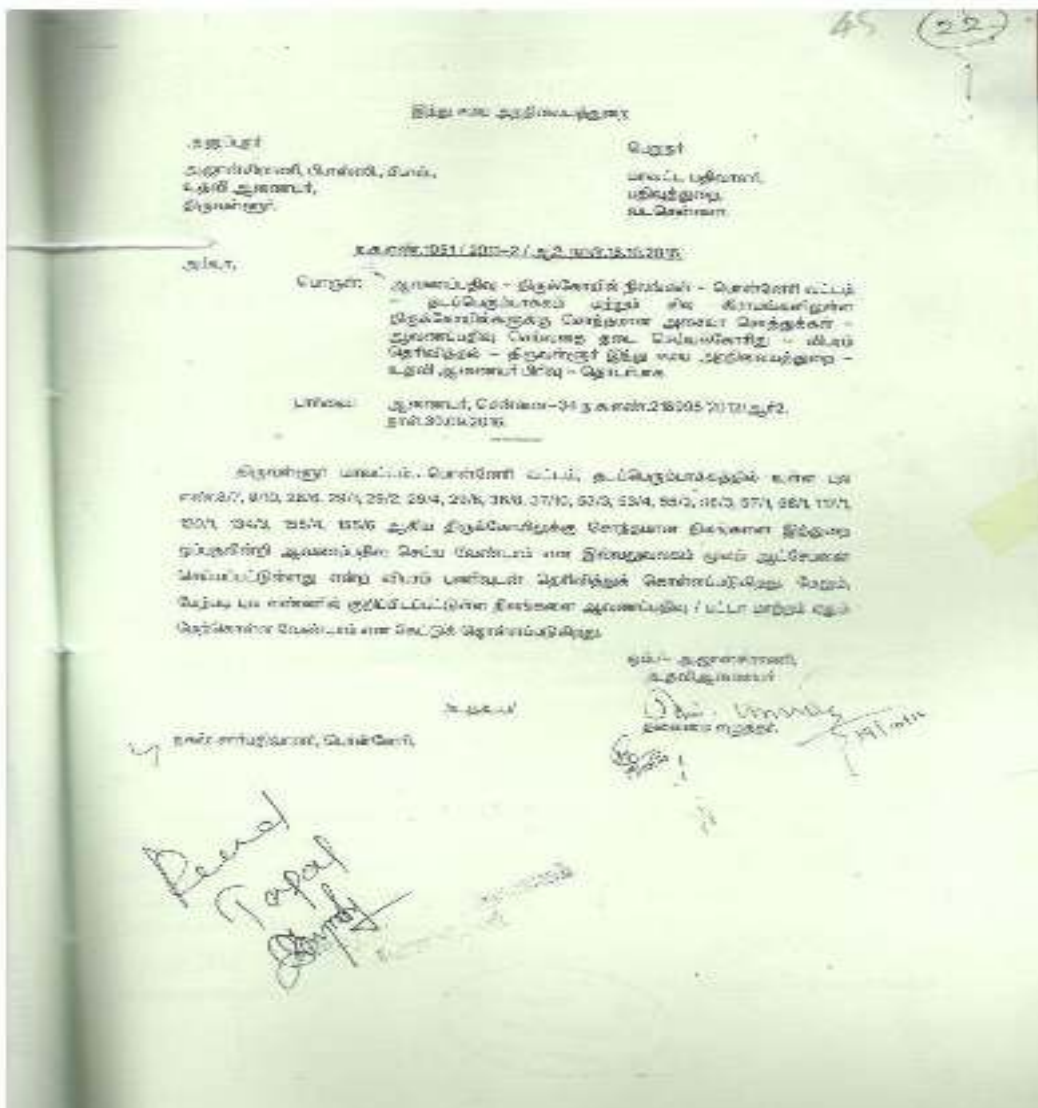
ORDER

Captioned main writ petition and 'Writ Miscellaneous Petitions' ('WMPs' in plural and 'WMP' in singular for the sake of brevity, convenience and clarity) are before me in the Admission Board i.e., Motion List under the caption ' FOR ADMISSION'.



2. Mr.S.Udhaya Kumar, learned counsel for sole writ petitioner, who is before this Virtual Court, submits that a communication dated 18.10.2016, bearing reference Na.Ka.No.1051/2011-12/B2 issued by the Assistant Commissioner of 'the Tamilnadu Hindu Religious and Charitable Endowments Department' [hereinafter 'TN HR&CE Dept.' for the sake of brevity] (second respondent) being a communication sent to the District Registrar, North Madras has been called in question. To be noted, this 18.10.2016 communication shall (from hereon) be referred to as the 'impugned communication' for the sake of convenience and clarity.

3. A scanned reproduction of the impugned communication is as follows:





4. The aforementioned impugned communication speaks for itself.

5. Be that as it may, notwithstanding the impugned communication, the writ petitioner has presented a sale deed before the fourth respondent (Sub-Registrar, Ponneri) for buying a small piece of land admeasuring 800 sq.ft or thereabouts comprised in S.No. 29/4 of No.58, Kodur Village (Thadaperumpakkam Group), Ponneri Taluk, Thiruvallur District from one E.Gajendran and the sale deed has been duly registered as Document No.4507 of 2017 by the fourth respondent.

6. Notwithstanding the above, learned counsel for writ petitioner, adverting to paragraphs 9 and 10 of the writ affidavit submits that the writ petitioner is not able to sell or mortgage her lands and the Power of Attorney of original owners pertaining to other parcels of lands in S.No.29/4 are also facing some impediment, but all these averments lack specificity as it is not the writ petitioner's case that any document was presented before the fourth respondent and fourth respondent refused to register the same citing the impugned communication. In the hearing, learned counsel makes oral submission that writ petitioner intends to mortgage property. Therefore, this writ petition is clearly premature.

7. Be that as it may, the writ petitioner cannot espouse the cause of others and this is not a public interest litigation. Learned counsel affirms that this is only a simple writ petition by the writ petitioner.

8. In the aforesaid backdrop, Mr.NRR.Arun Natarajan, learned State counsel , who is physically present in this Court, accepted notice on behalf of all the five respondents, with the consent of learned counsel on both sides, main writ petition itself was taken up.

9. Learned State counsel pointed out that the writ petition is clearly premature as it is not the case of the writ petitioner that any document has been presented qua aforesaid land in S.No. 29/4 of Kodur Village, Thadaperumpakkam Group, Ponneri Taluk, Thiruvallur District and registration has been refused. Learned State counsel also submitted that even if that happens, it is not as if the writ petitioner is without remedy. In this regard, learned State counsel draws the attention of this Court to an order made by a Hon'ble Division Bench being order dated 05.04.2017 in W.P.Nos.30589 of 2013 [Reported in 2017 SCC OnLine Mad 19191: (2017) 3 CTC 135: AIR 2017 Mad 203: (2017) 4 Mad LJ 445]. Learned State Counsel submitted that thereafter another Hon'ble Division Bench also in W.A (MD) No.609 of 2014 vide order dated 08.02.2018 has taken the same



view. In other words, in both these orders of Division Benches, a set of directives have been given to Registering Authorities qua registration of a document in cases where a letter is written to the Registering Authority by TN HR & CE Dept. (letter akin to the impugned communication) and the procedure to be followed by the Registering Authority has been adumbrated. Therefore, there are two reasons for me to say that this writ petition deserves to be dismissed albeit preserving the rights of the writ petitioner, if there is a separate cause of action. The two reasons are, a) it is premature and b) if the impugned communication comes in the way of the writ petitioner, the writ petitioner is not without a remedy. Rights of the writ petitioner in this regard are preserved.

10. In the light of the narrative thus far, captioned writ petition is dismissed as premature albeit preserving the rights of the writ petitioner in the aforesaid manner. Consequently, connected WMPs are also dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Commissioner
HR & CE Department
No.119, Uthamar Gandhi Salai
Nungambakkam
Chennai - 600 034
2. The Assistant Commissioner
HR & CE Department
Thiruvallur District
3. The District Registrar
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Chennai North
4. The Sub-Registrar
Ponneri
Thiruvallur District



5. The Tahsildar
Ponneri Taluk
Thiruvallur District

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+1cc to the Government Pleader Sr No.43146

W.P.No.17695 of 2021 &
W.M.P.Nos.18861 and 18863 of 2021

SSI (CO)
PR (22/09/2021)