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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30-09-2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP.NO.5557 OF 2016

P.I.Ibrahim,
President,
Kovai Anbu Nagar and Arputham Nagar Residential
Welfare Association,
55-1, 1st Floor, Leek House,
Eeshwaran Kovil Street,
Kottai, Coimbatore - 641 001.

.. Petitioner

.vs.

1. The Secretary,
State of Tamil Nadu,
Chennai.
2. The Joint Commissioner,
HR&CE, Admin. Department,
Government of Tamil Nadu,
Coimbatore - 641 018.
3. The Joint Sub Registrar I,
Sub Registrar Office,
Coimbatore - 641 018.
4. Mr.K.A.Mani,
S/o.Late Arumugha Thevar,
Represented by its Power Agent
Mr.R.S.Dhanapal
5. Mr.R.S.Dhanapal
6. Sri Veera Anjaneyar Swamy Temple,
Sri Vyasaraaja Mutt,
Branch at Coimbatore,
No.871, Ranga Gounder Street,
Coimbatore - 01.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the third respondent to register Sale Deeds pertaining to the scheduled property bearing GS.No.172 having an extent of



Area measuring 2.09 Acres of land situated at Anupparpalayam Village, Coimbatore.

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For Petitioner : Ms.Lulu Mariam
for Mr.S.V.Pravin Rathinam

For Respondents-1 and 3 : Mr.C.Kathiravan,
Government Advocate.

For Respondent-2 : Mr.N.R.R.Arun Natarajan,
Government Advocate.

For Respondents-4 to 6 : No Appearance

O R D E R

The relief sought for in the present writ petition is to direct the third respondent to register Sale Deeds pertaining to the scheduled property bearing G.S.No.172 having an extent of Area measuring 2.09 Acres of land situated at Anupparpalayam Village, Coimbatore.

2. The petitioner states that 240 acres of land situated at G.S.No.172, situated in Anupparpalayam, Coimbatore South Taluk, has been divided into plots for residential purpose in 2011 and named as 'Arputham Nagar'.

3. The contention of the petitioner is that the land initially belonged to and purchased from one Mr.Y.S.Ranganatha Rao (Sarvathikari of Vyasaraja Mutt) situated at Solalai Village in the State of Karnataka.

4. The learned counsel appearing on behalf of the petitioner reiterated that the said Mr.Y.S.Ranganatha Rao on 17.07.1986 sold an extent of 2.24 Acres of land in G.S.No.172 situated in Anupparpalayam Village, Coimbatore in favour of Tvl.K.Arumugham, K.A.Mani and Nagarajan under three Sale Deeds bearing Document Nos.3776/1986, 3777/1986 and 3778/1986 registered before the Joint Sub Registrar I, Coimbatore.

5. On the said basis, the petitioner claims that they are entitled for ownership and therefore, the Sale Deeds presented by them before the Joint Sub Registrar I, Coimbatore are to be registered. In view of the fact that the Joint Sub Registrar I, Coimbatore refused to register the documents based on the letter issued by the Joint Commissioner of Hindu Religious and Charitable Endowments Department, the petitioner is constrained to move the present writ petition.



6. The learned Government Advocate appearing on behalf of respondents 1 and 3 and the learned Government advocate, appearing on behalf of the second respondent, disputed the said contention raised on behalf of the petitioner by stating that the Competent Authority of Hindu Religious and Charitable Endowments Department [hereinafter referred to as the 'HR&CE Department', in short] raised an objection on the ground that the property belongs to the temple under the control of HR&CE Department.

7. In this regard, an objection letter was sent to the Sub Registrar concerned, not to register any documents in respect of the subject property. Such a refusal by the Sub Registrar is recognised under Section 22-A of the Registration Act, 1908. Under Section 22-A of the Registration Act, the Registrar shall refuse to register certain documents and sub clause (ii) of the said Section, stipulates that the Registering Officer shall refuse to register in respect of the documents belonging to or given or endowed for the purpose of any Religious Institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 is applicable. Therefore, the objection submitted by the HR&CE Department is in accordance with the provisions of the Registration Act and the refusal made by the Sub Registrar is also in consonance with the provisions of the Registration Act, 1908. The petitioner is bound to establish their title before the Authorities Competent or before the Competent Civil Court of Law by instituting a civil suit.

8. In reliance, the learned counsel for the petitioner cited a judgment of the Hon'ble Division Bench of this Court in the case of Sudha Ravi Kumar and Another vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department [(2017) 3 CTC 135], wherein in paragraph-26, it has been observed as under:-

"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.



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(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.

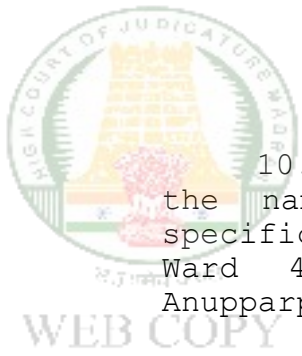
(iii) If the objections raised under Section 22-A of the Act by the religious institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a writ petition seeking cancellation of the registration or for any other relief or 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."

9. Considering the arguments, it is relevant to consider the letter sent by the Joint Commissioner of HR&CE Department in proceedings dated 04.05.2011, wherein the Joint Commissioner had categorically stated that as per the revenue records, the subject property belongs to Arulmigu Veera Anjaneyar Swamy Thirukkcoil, Range Gowder Street, Coimbatore City.



10. It is further contended that as per the revenue records, the name of the temple is found in the Register, more specifically, in respect of Survey No.172, Town Survey No.7, Ward 41, Block 5, measuring an extent of 240 Acres, Anupparpalayam Village, Coimbatore Town.

11. When the Joint Commissioner has verified the revenue records and raised an objection for registration of any documents by the Sub Registrar I, Coimbatore, then the refusal of registration of documents is well within the power conferred on the Joint Sub Registrar I, Coimbatore under Section 22-A, sub-clause (ii) of the Registration Act. Thus, there is no infirmity as such.

12. If the petitioner claims ownership/title in respect of the subject property, then they have to approach the Competent Civil Court of Law for the purpose of proving their title/ownership as per the letter of the joint Commissioner, HR&CE Department. Certain forged or fake documents were registered in earlier circumstances only to grab the temple land. Whether those documents registered earlier were forged or fake documents as recognised with reference to the revenue records and if they are available with the Temple Authorities and if it is found that the earlier documents are forged or fake one, then all appropriate actions against the persons who were involved in such illegalities are to be prosecuted. Beyond such action, the Joint Commissioner, HR&CE Department has to verify the records in a thorough manner and thereafter, initiate all appropriate actions to restore the temple land as per the provisions of the Hindu Religious and Charitable Endowments Act, 1959. In such process, if necessary, the petitioner also may be given an opportunity for the purpose of establishing their case.

13. This being the principles to be followed, the claim of the petitioner regarding the title/ownership of the subject property, cannot be validated by filing a writ petition and the petitioner has not established any prima facie case for the purpose of grant of relief sought for in the present writ petition.

14. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Svn



To

1. The Secretary,
State of Tamil Nadu,
Chennai.

2. The Joint Commissioner,
HR&CE, Admin. Department,
Government of Tamil Nadu,
Coimbatore - 641 018.

3. The Joint Sub Registrar I,
Sub Registrar Office,
Coimbatore - 641 018.

+1cc to the Government Pleader, S.R.No.51563

WP.No.5557 of 2016

KV(CO)
CS/13/10/2021