



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.10.2021

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.21626 of 2021

P.Vivekanandan

...Petitioner

Vs.

1.The Sub - Registrar,
Thondamuthur Sub - Registrar Office,
Thondamuthur,
Coimbatore - 109.

2.The Assistant Commissioner,
H.R & C.E. Department,
Coimbatore.

3. The Executive Officer,
Arulmigu Mariamman Mundhi Vinayagar Temple,
Puliyankulam,
Coimbatore.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the 1st respondent to register the order of the learned III Additional Subordinate Judge, Coimbatore in O.S.No.1519 of 2018 dated 10.07.2019 within a time frame fixed by this Court by considering the representation sent by the petitioner dated 08.09.2020.

For Petitioner : Ms.JP.Dhanyasree

For Respondents : Mr.Yogesh Kannadasan for R1
Government Advocate

ORDER

This Writ Petition has been filed for a Mandamus to direct the first respondent to register the order of the learned III Additional Subordinate Judge, Coimbatore in O.S.No.1519 of 2018 dated 10.07.2019 within a time frame by considering the petitioner's representation dated 08.09.2020.



2.The case of the petitioner is that he along with his sisters and brothers viz. Mrs.C.Siva Bakiyam, Mrs.M.Ambika, Mr.B.Karuppasamy and Mr.B.Ravichandran jointly filed a suit for partition of the ancestral property which is situated in Veerakeralam Village, Coimbatore District bearing S.No.478/2 an extent of about 1.65 acre against his other family members before the III Additional Subordinate Judge, Coimbatore in O.S.No.1519 of 2018 to divide the said property into three equal shares and to allot one such share to each person and put them all in the separate possession by appointing a Commissioner to effect the partition and for temporary injunction restraining the defendants in the suit who are all family members from alienating or encumbering the suit properties.

3.The petitioner submits that they have filed a Compromise Agreement before the learned III Additional Subordinate Judge, Coimbatore in O.S.No.1519 of 2018 and the same has been recorded by the Court and passed a decree dated 10.07.2019.

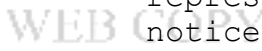
4.The petitioner further submits that he went to the office of the first respondent on 20.02.2020 to register the said Court order dated 10.07.2019 and when he presented the same for registration, the first respondent refused to register the same on the ground that the said property belongs to Tamil Nadu Hindu Religious and Charitable Endowment Department and also the petitioner came to know that the third respondent herein on 13.02.2014 had requested the first respondent in writing not to register any such document in respect of the said property since it belongs to the said religious institution.

5.According to the petitioner, he made a representation dated 03.03.2020 requesting the first respondent to grant permission to get No Objection Certificate from the second respondent.

6.The petitioner submits that the property originally belongs to his grandfather viz. Mr.Karppasamy Nadar and after demise of his grandfather, the said property inherited to his father viz. Mr.Balasundara Ganesan and his father brothers viz., Mr.Chidambara Nadar and Mr.Ramasamy Nadar who are the sons of his deceased grandfather.

7.According to the petitioner, the above said property is in the name of his family members and the Government records such as Patta, Fasali etc shows that the property belongs to them.

8.The petitioner submits that the property is the joint family property and it is not belongs to the said religious institution and there is no record to show that the property



9. The petitioner further submits that on the basis of his representation dated 03.03.2020, the first respondent sent a notice vide Proc.No.53/2020 dated 03.03.2020 to the respondents 2 and 3 called upon for any objection in registering the above said property or if not insisted to give No Objection Certificate, but both the respondents 2 and 3 never sent any reply to the above notice.

11.The petitioner submits that the second respondent by Proc.No.1018/2020A7 dated 11.11.2020 communicated to the first respondent that the third respondent seeks time to produce documents relating to the above said property until then not to register any documents in relation to the said property.

13. According to the petitioner, the respondents 2 and 3 knows that the disputed property does not belongs to the said religious institution and there is no such record/document showing that the property belong to the said religious institution and willingly delaying to reply to the notice dated 03.03.2020 issued by the first respondent.

15. Heard, learned counsel for the petitioner and learned Government Advocate for the first respondent and perused the materials available on record.



16. In view of the above and considering the submission made by the petitioner, this Court is of the view that the first respondent shall consider the petitioner representation dated 08.09.2020 and pass appropriate orders in accordance with law, after affording an opportunity to all the parties concerned, within a period of eight weeks from the date of receipt of a copy of this order.

17. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar (CS V)

//True Copy//

Sub Assistant Registrar

pam

To

1. The Sub - Registrar,
Thondamuthur Sub - Registrar Office,
Thondamuthur,
Coimbatore - 109.
2. The Assistant Commissioner,
H.R & C.E. Department,
Coimbatore.
3. The Executive Officer,
Arulmigu Mariamman Mundhi Vinayagar Temple,
Puliyankulam,
Coimbatore.

+1cc to Mr.J.P.Dhanyasree & V.Saimani, Advocate Sr.52710
+1cc to the Government Pleader Sr.53204

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ad[co]
srg 10/11/2021