



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P(MD)No.4999 of 2013

and

M.P(MD).No.2 of 2013

(Through Video Conference)

A.Sakthi @ Natarajan

.. Petitioner

Vs.

1.The Sub Registrar,
Thirumangalam,
Madurai District.

2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Madurai.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for records relating to the impugned order dated 23/07/2012 in Na.Ka.No.1237/2012/A1 passed by the second respondent and quash the same and consequentially directing the first respondent to register the sale deeds in respect of the property measuring 0.40.50 hectares in Survey No.10/2A and 0.52.50 hectares in Survey No.10/2B, Karisalpatti Village, Thirumangalam Taluk, Madurai District.

For Petitioner : Mr.M.Kannan

For Respondents : Mr.R.Suresh Kumar

Government Advocate

ORDER

This writ petition has been filed challenging the impugned proceedings of the second respondent dated 23.07.2012 wherein the second respondent has directed the first respondent to cancel the sale deed executed with respect to the properties that have been shown in the impugned proceedings and not permit any documents to be presented for registration pertaining to those properties.

2. Heard Mr.M.Kannan, learned counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents.

3. In the considered view of this Court, the petitioner has filed various documents right from the year 1921 onwards and is claiming a right and title over the property. According to the



petitioner, the second respondent cannot merely issue a letter and direct the first respondent to cancel the earlier documents. This claim made by the petitioner is valid. The first respondent does not have any powers to cancel a registered document and the same can only be done by a competent Civil Court. Therefore there is no question of the first respondent complying with the directions given by the second respondent and cancelling the documents which have already been registered. Therefore, the first portion of the impugned order directing for cancellation of the earlier registered documents, is unsustainable in law.

4. Insofar as the second portion of the impugned order is concerned, the directions issued by the Division Bench of this Court in **Sudha Ravi Kumar and another Vs, The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department and others**, reported in **2017 (3) CTC 135** will directly apply to the facts of the present case. The relevant portion of the judgment is extracted hereunder:

" 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.



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(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."

5. In view of the above, as and when any document is submitted for registration, an enquiry shall be conducted by the first respondent in accordance with the directions given by the Division Bench and a decision shall be taken.

6. This writ petition is disposed of accordingly. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Sub Registrar,
Thirumangalam,
Madurai District.

2.The Assistant Commissioner,
Hindu Religious and Charitable
Endowments Department,
Madurai.

+1 CC to MR.M.KANNAN, Advocate (SR-23283[F] dated 20/07/2021)

+1 CC to M/s.GP (SR-23304[F] dated 20/07/2021)

W.P(MD)No.4999 of 2013

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MGJ(02.08.2021) 4P 5C