



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.1328 of 2021

Palani

... Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious and Charitable Endowment Department,
Madurai.

2.The Assistant Commissioner/The Executive Officer,
Arulmigu Koodal Alagar Thirukovil,
Hindu Religious and Charitable Endowment Department,
Madurai.

3.The Sub Registrar,
Office of the Registration Department,
Tallakulam, Madurai - 625 002.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 3rd respondent herein to permit the petitioner to present the sale deed for registration in his favour in respect of the landed property measuring an extent of 0.12.00 Ares, equaling 30 Cents comprised in Survey Nos.172/2B1A, 172/2B1B and 172/2B1C respectively situated at Tallakulam, Madurai North Taluk, Madurai District, after receiving the necessary stamp duty and Registration Fee without insisting No Objection Certificate from the respondents No.1 and 2, herein by considering his representation, dated 26.10.2020, within the time stipulated by this Court.

For Petitioner : Mr.J.Lawrance

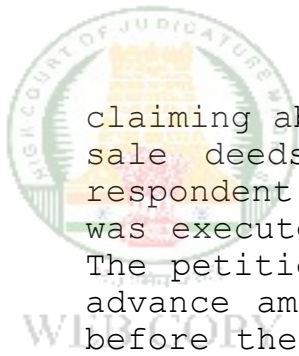
For Respondents : Mr.R.Sureshkumar for R1 and R3
Government Advocate
Mr.S.Manohar for R2

ORDER

This writ petition has been filed for the issue of writ of Mandamus directing the third respondent to register the sale deed presented for registration with respect to the subject property without insisting for a No Objection Certificate from the first and second respondents.

2.Heard Mr.J.Lawrance, learned counsel appearing for the petitioner, Mr.R.Sureshkumar, learned Government Advocate, appearing for the respondents 1 & 3 and Mr.S.Manohar, learned counsel appearing for the second respondent.

3.It is seen from records that the vendor of the petitioner is
<https://hcservices.ecourts.gov.in/hcservices/>



claiming absolute right over the subject property by virtue of three sale deeds registered on 21.05.1987, on the file of the third respondent. It is the claim of the petitioner that the sale deed was executed pursuant to the permission granted by the civil Court. The petitioner wanted to purchase the property and he also paid the advance amount. When the sale deed was presented for registration before the third respondent, the petitioner was informed that a No Objection Certificate must be obtained from the first and second respondents. Aggrieved by the same, the present writ petition has been filed before this Court.

4. In the considered view of this Court, the issue involved in the present writ petition is squarely covered by the Judgment of the Division Bench of this Court in the case of **Sudha Ravikumar Vs. Special Commissioner** reported in **2017 (4) MLJ 445**. The Division Bench has given clear guidelines as to how such disputes have to be handled at paragraph 25 of the Judgment and the same 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.

(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 Sudha Ravi Kumar vs The Special

Commissioner And 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, there shall be a direction to the third respondent to call the petitioner and the second respondent for an enquiry and based on the materials furnished by them shall take a decision regarding the registration of the sale deed, by keeping in mind the guidelines issued by the Division Bench, within a period of four weeks from the date of receipt of a copy of this order.

6. This writ petition is disposed of with the above directions. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

TM

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 Joint Commissioner,
Hindu Religious and Charitable Endowment Department,

Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Assistant Commissioner/The Executive Officer,
Arulmigu Koodal Alagar Thirukovil,
Hindu Religious and Charitable Endowment Department,
Madurai.

3.The Sub Registrar,
Office of the Registration Department,
Tallakulam, Madurai - 625 002.

+1 CC to M/s.S.MANO HAR, Advocate (SR-20502[F] dated 29/06/2021)
+1 CC to M/s.J.LAWRANCE, Advocate (SR-20498[F] dated 29/06/2021)
+1 CC to M/s.SPL GP (SR-20683[F] dated 30/06/2021)

W.P. (MD) .No.1328 of 2021
28.06.2021

KK(05.07.2021) 4P 7C