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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.2981 of 2021

S.Kannadasan ... Petitioner

Vs.

1. The District Collector,
   Madurai District, Madurai.

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

3. The Executive Officer/Assistant Commissioner,
   Arulmigu Subramania Swamy Thirukovil,
   Thiruparankundram, Madurai.

4. The Tahsildar,
   Thiruparankundram Taluk, Madurai.

5. The Sub Registrar,
   Thiruparankundram,
   Madurai. ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the fifth respondent to act accordingly in registering any document pertaining to the land belonging to the petitioner in R.S.No.136/2A at Thiruparankundram Village, Madurai after availing detailed report over the said property within the time frame fixed by this Court.

For Petitioner : Mr.G.Sivaraja
For R-1,R-4&R-5 : Mr.K.Sathiya Singh,
Additional Government Pleader.

For R-2 : Mr.K.P.Narayanakumar,
Special Government Pleader.

For R-3 : Mr.S.Manohar

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O R D E R

The writ petitioner's case is that the third respondent temple does not have any right over the property in question. According to the petitioner, he is at liberty to deal with the property as he deems fit and that the registering authority ought to register the document as and when presented for registration.

2.While considering the similar issue, the Hon'ble Division Bench in the decision reported in 2017 (3) CTC 135 (Sudha Ravi Kumar and Ors. Vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department and Ors), held as under :

> "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 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

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relief as indicated above. At any rate, the registering authority shall not withhold the deed which has already been registered."

3.The registering authority shall adhere to the directions set out above. Accordingly, the writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 District Collector,
   Madurai District, Madurai.

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

3. The Tahsildar,
   Thiruparankundram Taluk, Madurai.

4. The Sub Registrar,
   Thiruparankundram,
   Madurai.

+1 CC to Mr.S.MANOHAR, Advocate (SR-5252[F] dated 16/02/2021)
+1 CC to Additional Government Pleader(SR-5378[F] dated 16/02/2021)
+1 CC to SPL GP (SR-5629[F] dated 17/02/2021)

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VB (26.02.2021) 3P 8C

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