



BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

DATED: 15.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WEB COPY

W.P. (MD)No.5000 of 2021

(Through Video Conferencing)

G.Venkatesan

... Petitioner

Vs.

- 1.The State of Tamilnadu
Rep. by its Commissioner
Hindu Religious and Charitable Endowments Department
119 Uthamar Gandhi Salai
Nungambakkam
Chennai.
- 2.The District Collector
Madurai District
Madurai.
- 3.The Executive Officer/Assistant Commissioner
Arulmigu Subramaniaswamy Thirukovil
Thiruparankundram,
Madurai.
- 4.The Sub Registrar,
Thirupparankundram,
Madurai

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus to direct the 4th respondent to release the original document (Sale deed) executed in favour of the petitioner and registered as Doc.No.123/2016 dated 21.11.2016 on the file of the 4th respondent, on the basis of the directions issued by the Hon'ble Division Bench in W.A. (MD) No.609/2014 dated 08.02.2018, within the time frame by this Court.

For Petitioner	:Mr.R.Aravindan
For Respondents	:Mr.M.Lingadurai for R1, R2 & R4 Special Government Pleader Mr.S.Manohar for R3

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the fourth respondent to release the sale deed that was executed in favour of the petitioner and registered as Document No.123/2016 on 21.11.2016 on the file of the 4th respondent.



2. The case of the petitioner is that he purchased the subject property from one Rajkumar, after conducting a legal due diligence. The said Rajkumar executed a sale deed dated 21.11.2016 in favour of the petitioner and the same was presented for registration before the 4th respondent. The further case of the petitioner is that the fourth respondent has entertained the document and registered the same as Document No.123/2016. The grievance of the petitioner is that the 4th respondent is refusing to release the document, which has already been registered, based on the objections made by the third respondent. Aggrieved by the same, the present writ petition has been filed before this Court seeking for appropriate directions.

3. Heard Mr.R.Aravindan, learned counsel for the petitioner, Mr.M.Lingadurai, learned Special Government Pleader, for the respondents 1, 2 and 4 and Mr.S.Manohar, learned standing counsel for the third respondent.

4. The learned counsel appearing on behalf of the third respondent submitted that the vendor of the petitioner has already filed a writ petition before this Court in W.P(MD) No.7362/2019, wherein, the order passed by the Commissioner, HR&CE Department dated 07.05.2018 has been put to challenge. The learned counsel further submitted that the vendor of the petitioner has also sought for release of the very same document and therefore, till final orders are passed in W.P.(MD) No.7362/2019, the relief claimed by the petitioner in this writ petition is unsustainable.

5. The learned counsel for the petitioner submitted that in the present case, the document in question has not been kept as a pending document by the fourth respondent. If it had been kept as pending document based on the objections made by the third respondent, then, the fourth respondent has to necessarily conduct an enquiry as per the judgment of the Division Bench in **Sudha Ravikumar and others v. The Special Commissioner and others** reported in **(2017) 3 CTC 135** and as per the guidelines given in Paragraph No.25 of the said judgment. However, where the document has already been registered, there is no question of retaining the document and the fourth respondent has to necessarily release the document to the petitioner. The learned counsel further submitted that the writ petition filed by the vendor of the petitioner questioning the order passed by the Commissioner, HR&CE, is an independent cause of action and it has got nothing to do with the release of document by the 4th respondent.

6. In the considered view of this Court, once the fourth respondent has already registered the document and assigned Document No.216/2016 to the said document, the fourth respondent cannot retain the document thereafter on the basis of the objections made by the third respondent. In a way the fourth respondent, who is the



registering authority, after the registration of the sale deed, becomes a *functus officio* and he lacks the power or jurisdiction to retain a document, which has already been registered. That apart, no useful purpose will be served in retaining the document, since the fourth respondent, after registering the document cannot decide the *inter se* rights between the vendor of the petitioner and the third respondent. This is more so since the fourth respondent becomes a *functus officio* after the document is registered.

7. Insofar as the writ petition filed by the vendor of the petitioner in W.P.(MD) No.7362/2019 is concerned, it is based on an independent cause of action, wherein, the order passed by the Commissioner, HR&CE, has been put to challenge. Ultimately the order passed in the said writ petition may have a bearing on the right over the property as between the petitioner and the third respondent. However, that has got nothing to do with the release of a registered document by the fourth respondent to the petitioner. The petitioner will ultimately get only the rights possessed by his vendor and nothing more. Therefore, insofar as the right over the property is concerned, it can be independently decided while considering W.P.(MD) No.7362/2019 is concerned.

8. The order passed in this writ petition will not in any way prejudice the rights of the third respondent Temple and all the issues are left open to be raised in the pending writ petition in W.P.(MD) No.7362/2019.

9. In the result, this writ petition is allowed and there shall be a direction to the 4th respondent to release the document registered as Document No.123/2016 to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

10. The petitioner is directed to make a fresh representation to the fourth respondent along with a copy of this order. No costs.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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

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4.The Sub Registrar,
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+1 CC to M/s.R.ARAVINDAN, Advocate (SR-19490[F] dated 17/06/2021)

+1 CC to M/s.SPL GP (SR-19518[F] dated 17/06/2021)

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KB(23.06.2021) 4P 7C