



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. [MD]No.789 of 2021

and

C.M.P. [MD]No.3565 of 2021

Against WP(MD)No.10811 of 2020

Bharathidasan : Appellant/3rd Respondent
Vs.

- 1.Karur Sri Ramakrishna Educational
And Charitable Trust,
Represented by its Secretary,
Mr.Sasikumar,
S/o. Mahalingam,
Door No.69/36, Mela Agraharam,
Krishnarayapuram, Karur District. :1st Respondent/Petitioner
- 2.The District Registrar,
Karur District, Karur.
- 3.The Sub Registrar,
Krishnarayapuram Sub Registry,
Krishnarayapuram,
Karur District. :Respondents Nos.2&3/Respondents 2&3

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to allow the appeal and set aside the order of this Court made in W.P.[MD]No.10811 of 2020 dated 24.03.2021.

Prayer in WP(MD). 10811 of 2020 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records for the records of the Refusal check slip order dt.11.6.2020 quash the same and consequently direct the 2nd respondent to register the document presented by the petitioner's trust.

For Appellant : Mr.R.Murali
for Mr.S.Prem Kumar
For Respondents 2&3 : Mr.K.Sathiya Singh
Additional Government Pleader



JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

By consent of both parties, the appeal itself is taken up for final disposal.

2.Heard Mr.R.Murali, for Mr.S.Prem Kumar, learned Counsel appearing for the appellant and Mr.K.Sathiya Singh, learned Additional Government Pleader appearing for respondents 2 & 3.

3.This appeal is directed against the order dated 24.03.2021, passed in W.P.[MD]No.10811 of 2020, filed by the first respondent Trust. The appellant before us was the third respondent in the writ petition. The first respondent Trust filed a writ petition, challenging a check slip issued by the third respondent herein namely, the Sub-Registrar, Krishnarayapuram Sub Registry, Krishnarayapuram, Karur District, refusing to accept a supplementary Trust Deed for registration on the ground that the appellant has given an objection that he has filed a suit in O.S.No.276 of 2019, on the file of the District Munsif Court, Kulithalai, for a decree of permanent injunction to restrain the first defendant being the first respondent / writ petitioner, from in any manner creating any kind of alienation or encumbrance over the suit schedule property without the permission of the District Court, Karur. Further, the first respondent to restrain defendants 29 and 30, who are the Sub Registrar, Krishnarayapuram and the District Registrar, Karur, respectively, from in any manner register any kind of document in respect of the suit schedule property, if placed by the defendants 1 to 28 or any persons claiming under them for transferring the title of the suit schedule property from the first respondent / first defendant Trust to the name of any other persons without the permission of the District Court, Karur.

4.The case of the appellant is that by virtue of the supplementary deed of Trust, the existing and continuing 12 trustees are sought to be replaced by another 12 new trustees, to facilitate the alienation of the Trust property and the same is being surreptitiously done to bye-pass the procedure under the Trust Act, which mandates that permission of the District Court concerned has to be obtained. The learned Writ Court, after considering and placing on record the undertaking given by the writ petitioner dated 28.02.2021, allowed the writ petition and set aside the check slip issued by the Sub Registrar and directed him to register the document namely supplementary Trust Deed dated 02.03.2020, without reference to the pending suit filed by the appellant and also recording the undertaking given by the first respondent / writ



5. Learned Counsel would submit that if a supplementary Trust Deed is allowed to be registered, the composition of the Trust would change and it would facilitate alienation of the Trust property and the Trust is trying to indirectly achieve what they cannot achieve directly. Unless the permission of the district court is obtained, the Trust properties cannot be alienated.

6. We find that in the suit, there is no interim direction issued restraining the Sub-Registrar from exercising his powers conferred under the provisions of the Registration Act and the rules framed thereunder. Furthermore, the suit concerns the property alone and there is no separate declaratory prayer in respect of the composition of the Trust or the manner in which the structure of the trustees would change, upon registration of the supplementary deed. In any event, it is for the appellant to pray for appropriate orders in the pending civil suit. In the absence of any interim order granted in the suit, the registering authority cannot be restrained.

7. In our considered view, the interest of the Trust property has been sufficiently safeguarded by the learned Writ Court, by directing an undertaking affidavit to be filed by the Trust and the said undertaking to be recorded by the Sub-Registrar while entertaining the supplementary Trust deed dated 02.03.2020. Therefore, we find that there is no ground made out by the appellant to interfere with the order passed by the learned writ Court. All that we can observe is that any such registration would be subject to the outcome of the civil proceedings, because the suit was filed much earlier to the supplementary Trust deed.

8. With the above observation, the Writ Appeal stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)



To

1. The District Registrar,
Karur District, Karur.

2. The Sub Registrar,
Krishnarayapuram Sub Registry,
Krishnarayapuram,
Karur District.

+1 CC to M/s.SPL GP (SR-15778[F] dated 15/04/2021)

+1 CC to M/s.S.PREMKUMAR, Advocate (SR-15818[F] dated 15/04/2021)

JUDGMENT MADE IN
W.A. [MD] No. 789 of 2021

09.04.2021

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CN(20.05.2021) 4P 5C