



WEB COPY

WP(MD)No.10811 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED : 26.02.2021

ORDER PRONOUNCED : 24.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.10811 of 2020

and

W.M.P. (MD) No.9516 of 2020

Karur Sri Ramakrishna Educational
and Charitable Trust,
represented by its
Secretary,
Sasikumar,
S/o.Mahalingam,
Door.No.69/36, Mela Agraharam,
Krishnarayapuram,
Karur District.

.. Petitioner

vs

1.The District Registrar,
Karur District,
Karur.

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

3.Bharathidasan
(R3 has been impleaded vide order dated 14.12.2020 made in WMP(MD)
No.10861 of 2020)

.. Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the refusal check slip order dated 11.06.2020 quash the same and consequently direct the 2nd respondent to register the document presented by the petitioners trust.

For Petitioner : Mr.A.Srinivasan

For R1 & R2 : Mr.K.Sathiya Singh
Additional Government Pleader

For R3 : Mr.V.Nagarajan



ORDER

The case of the petitioner is that he is one of the founder trustees of the petitioner trust, which was registered on the file of the 2nd respondent in Doc.No.184/2010. However, at the time of forming the trust, there were 20 trustees and the main object of the trust was to promote and run schools and colleges for the welfare of the poor and needy, among other objects of the trust. The trust has started a school with a strength of 500 students and has been managing the same in furtherance of its objects. The Trust has been managed by Chairman, Secretary and Treasurer, who were elected office bearers from among the trustees.

2. According to the petitioner, over a period of time, several trustees had expressed their willingness to move out of the trusteeship and they have been replaced by induction of new trustees. The exercise of the replacement of the old with new Trustees has been done, without any hindrance to the day today running of the school and the administration of the trust. In 2017, one trustee by name, C.Bharathidhasan was removed from the Trust and he has filed a suit before the District Munsif Court, Kulithalai for an injunction restraining the trustees from alienating the suit property, namely, the school and an injunction against the respondents 1 and 2 not to register any documents alienating the suit property to 3rd parties by the trustees. According to the petitioner, the suit was filed in December, 2019. In the meanwhile, on 13.10.2019, a meeting of the trustees was held and as per resolution No.3, 12 existing trustees expressed their willingness to be relieved from the trusteeship and therefore, the vacancies were filled up by inducting 12 new persons as trustees to the petitioner trust.

3. In view of the above development, a new trust deed was executed on 02.03.2020 by inducting 12 new trustees in the place of existing trustees and the document was presented for registration before the 2nd respondent. The document was not registered for some time, but on enquiry, the trust was informed that supplementary deed could not be registered for the reason that the erstwhile trustee, namely, C.Bharathidhasan, has filed a civil suit and the same is pending before the Civil Court concerned, wherein, the respondents have also been made as party and hence, the document was returned by refusing to register the same on 11.06.2020. Challenging the refusal slip dated 11.06.2020, the petitioner is before this Court.

4. Mr. A. Srinivasan, learned counsel appearing for the petitioner would submit that the document, which has been presented before the 2nd respondent was only in respect of trusteeship as several trustees had quit from the petitioner trust and in their places, new trustees have been inducted and the registration of document had nothing to do with the alienation of the trust properties nor there was any attempt to encumber the trust



properties, which would have any bearing on the pending suit initiated by the said C.Bharathidhasan before the civil Court. According to the learned counsel, the 3rd respondent, who has been subsequently impleaded in this proceedings, has an objection only in regard to the protection of the property of the trust and he may not have any objection as to the registration of supplementary trust deed, containing the names of newly inducted Trustees.

5. Notice was ordered in this case and in response to the same, Mr.K.Sathiya Singh, learned Additional Government Pleader has entered appearance on behalf of the respondents 1 and 2 and Mr.V.Nagarajan, learned counsel has entered appearance on behalf of the 3rd respondent.

6. The learned counsel appearing for the 3rd respondent would submit that in the guise of registering the supplementary trust deed, the petitioner cannot enter into any transaction, which would dilute the right of the 3rd respondent in the pending civil Court proceedings initiated against the petitioner trust.

7. At this, the learned counsel appearing for the petitioner would submit that an affidavit of undertaking would be filed by the petitioner not to alienate the properties belonging to the trust, till the disposal of the suit filed by the said C.Bharathidhasan and in that event, the third respondent cannot have any objection for registration of the Trust deed.

8. The learned counsel appearing for the 3rd respondent would submit that if such affidavit is filed before this Court, in pursuance of the undertaking given by the petitioner, this Court would pass appropriate orders in the writ petition.

9. As regards the official respondents, the learned Additional Government Pleader would submit that if it is only a matter of registration of supplementary trust deed not touching upon the subject matter of the pending suit there may not be a legal impediment for registration of the document and particularly any direction is issued in this regard to the authority concerned, the same will be duly complied with.

10. In pursuance of the oral undertaking given by the learned counsel for the petitioner, an affidavit dated 28.02.2021 has been filed before this Court and a copy of the same has also been served to the respondents. The contents of the affidavit of undertaking are extracted hereunder:-

"2. I submit that I am the petitioner herein and Secretary of the petitioner trust. The above writ petition has been filed challenging the order of the 2nd respondent dated 11.06.2020 by which, the document registering the change of trusteeship has been rejected



stating that a suit in O.S.No.276/2019 on the file of the District Munsif Court, Kulithalai has been filed by one C.Bharathidasan, a former trustee. The above suit is for a permanent injunction restraining the trustees from alienating or encumbrance over the suit property without court permission.

3.I submit that when the above writ petition was taken up for hearing on 26.02.2021, the learned counsel for the 3rd respondent who is the plaintiff in the above suit argued that we the trustees are trying to sell the suit property. The trust has been formed to start and develop educational institutions. The said properties will not be alienated or encumbered by the present trustees till the disposal of the suit."

11.In view of the above undertaking given by the petitioner trust and also the submission of the official respondents as well as the contesting 3rd respondent, this Court is inclined to allow the writ petition along with the directions as under:-

i)The impugned refusal check slip, dated 11.06.2020 is hereby set aside.

ii) The 2nd respondent is consequently directed to register the document presented by the petitioner trust, namely, supplementary trust deed dated 02.03.2020, if the document is otherwise in order, without reference to the pending suit proceedings initiated by the 3rd respondent herein and also by recording the undertaking of the petitioner trust as extracted supra.

iii) Such registration shall be done within a period of two weeks from the date of receipt of a copy of this order.

12.The writ petition is disposed of on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

// 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.

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



To

1.The District Registrar,
Karur District,
Karur.

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

+1 CC to M/s.A.SRINIVASAN, Advocate (SR-13161[F] dated 24/03/2021)

W.P. (MD) No.10811 of 2020
24.03.2021

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SMV (CO)

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