



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.10.2021

CORAM

THE HON'BLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P. (MD)No.18679 of 2021

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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

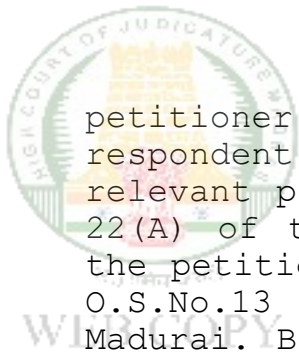
Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the third respondent vide his proceedings in Na.Ka.No.232/2021, dated 25.08.2021 and quash same as illegal and consequently direct the third 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 Thallakulam, Madurai North Taluk, Madurai District, after receiving the necessary stamp duty and registration fee within the time stipulated by this Court.

For Petitioner : Mr.J.Lawrance
For Respondents : Mr.P.Subbaraj,
Counsel for the State for R1 and R3.
Mr.S.Manohar for R2.

O R D E R

The petitioner challenges an order dated 25.08.2021 by which the third respondent refused to register a sale deed presented by the petitioner for registration.

2. The petitioner claims title over the property admeasuring about thirty cents in Survey Nos.172/2B1A, 172/2B1B and 172/2B1C at Thallakulam, Madurai Taluk, Madurai District. Upon presenting a sale deed in respect of the said property for registration, it is stated that the impugned order was issued. The



petitioner assails the said order on the ground that the second respondent did not produce any documents to establish title over the relevant property. Consequently, the petitioner states that Section 22(A) of the Registration Act, 1908 is inapplicable. In addition, the petitioner relies upon an order passed in I.A.No.249 of 1984 in O.S.No.13 of 1932 on the file of the II Additional Sub-Court, Madurai. By such order, it is stated that sanction was granted for sale of the property and the said order was not assailed by the second respondent. For both these reasons, the petitioner contends that the impugned order is unsustainable.

3. Mr.P.Subbaraj, learned counsel for the State, accepts notice on behalf of respondents 1 and 3 and Mr.S.Manohar, learned Standing Counsel, accepts notice on behalf of the second respondent.

4. The impugned order is an order passed after providing a reasonable opportunity to the contesting parties. The petitioner assails the order on the ground that the second respondent has failed to produce any evidence of title over the relevant property as also on the basis of the order passed by the civil Court in I.A.No.249 of 1984 in O.S.No.13 of 1932. Therefore, factual issues arise for consideration and such factual issues cannot be conveniently addressed on affidavit evidence in proceedings under Article 226 of the Constitution. This aspect assumes significance in light of the availability of a statutory remedy under Section 72 of the Registration Act, 1908. The one impediment that the petitioner would encounter is the limitation period of thirty days specified in Section 72(1) of the Registration Act, 1908. The petitioner, however, has approached this Court *bona fide* for purposes of assailing the order of the Sub-Registrar. Therefore, if the petitioner presents the appeal before the District Registrar within fifteen days from the date of receipt of a copy of this order, the District Registrar is directed to receive such appeal and dispose of the same on merits without going into the question of limitation. Such appeal shall be considered and disposed of after providing a reasonable opportunity to the petitioner, the second respondent and any other parties thereto.

5. Subject to the above observations, W.P(MD).No.18679 of 2021 is disposed of without any order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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



To

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.

+1 CC to M/s.J.LAWRANCE, Advocate (SR-32415[F] dated 25/10/2021)

+1 CC to M/s.S.MANO HAR, Advocate (SR-32528[F] dated 26/10/2021)

+1 CC to M/s.SPL.GP (SR-32370[F] dated 25/10/2021)

W.P.(MD)No.18679 of 2021

22.10.2021

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