



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2022

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.2348 OF 2022

AND

W.M.P.NO.2503 OF 2022

1.P.V.Sadhunraj

2.V.Kosala

...Petitioners

/Vs/

1.The Commissioner,
Hindu Religious and Charitable Endowment,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Salem.

3.The District Registrar
Salem District.

4.The Sub Registrar,
Mecheri,
Salem District.

...Respondents

Prayer : Writ petition filed under Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus, to call for the records in Na.K.No.557/2021 on the file of the Sub Registrar, Mecheri 4th respondent dated 06.12.2021 and quash the same and further direct the 4th respondent to register the pending sale deed dated 24.07.2020.

For Petitioners : Mr.Venkatesh Kumar

For Respondents : Mr.K.Karthikeyan
Govt. Advocate for R1 & 2

: Mr.Yogesh Kannadasan
Special Govt. Pleader for R3 & 4



ORDER

This writ petition has been filed against the impugned proceedings bearing Na.K.No.557/2021 on the file of the Sub Registrar, Mecheri 4th respondent dated 06.12.2021 and and quash the same and further direct the 4th respondent to register the pending sale deed dated 24.07.2020.

2. The case of the petitioners is that petitioners are the lawful owners in possession of S.No.160/2C of Pottanery Village, Mechery Taluk. The said land and other lands were previously owned by one Perumal Gounder. After his demise, his legal heirs entered into a partition deed dated 09.09.2002, wherein, the above said land was allotted to one of the legal heirs Valarmathi vide Document No.1594/ 2002. The said Valarmathi along with her brother had sold the same to one Jaisathish vide Document No.915/2004. The petitioner had purchased the same from one Jaisathish. In such circumstances, due to want of money, the petitioner has decided to sell the above said property and presented the same before the 4th respondent/ the Sub Registrar for registration. Where as, the 4th respondent refused to register the same, stating that the said land belongs to HR&CE Department as per objection letter of the 2nd respondent/ Assistant Commissioner, Salem. The HR & CE department has no right over the property, but they have wrongly given objections as if the land belongs to them and the Sub Registrar without issuing any notice and without conducting any enquiry has mechanically refused to register the document. Hence, the present writ petition.

3. The learned counsel for the petitioner would submit that the issue raised in this case is no longer res intergra which has been already decided by this Court in P.V.Sadhunaraj & another Vs The Commissioner, H.R & C.E. Department (WP.No.8299 of 2021 vide order dated 05.07.2021).

4. Per contra, Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 3 & 4 would submit that the land belongs to HR&CE Department and the Temple records also clearly shows the same.

5. I have considered the rival submissions and also perused the records carefully.

6. On perusal of the records, it could be seen that there is a dispute between the petitioners and the HR & CE department regarding the title of the property and the HR & CE department has also submitted its objections under Section 22A of the Registration Act and considering the same, the Sub Registrar has refused to register the document. If at all any objections are



raised by a religious institution, the Registrar is expected to conduct enquiry and issue notice to the parties and after considering the materials available on record and after affording opportunity of hearing to the contesting parties, the Registrar has to pass order. But, in the instant case, the Sub Registrar, without issuing any notice whatsoever and without conducting any enquiry mechanically refused to register the document. In this respect, it is useful to refer to the relevant portion of the order of learned Single Judge this Court in WP.No.8299 of 2021 vide order dated 05.07.2021, wherein the Division Bench decision in Sudha Ravi Kumar v. The Special Commissioner & Commissioner, H.R & C.E. Department reported in 2017 (3) CTC 135 was adverted to and the learned Judge held as follows:-

"25. But this observation of ours shall not be construed that it is our conclusion that ryotwari patta issued to the ryot concerned is the final adjudication relating to the title for the property. We wish to clarify that the final adjudication regarding the title to the property can be had only before a Civil Court. We only say that at the time of registration of the deed, if any objection is made by the religious institution under Section 22-A of the Act, the registering authority shall issue notice afford opportunity to the parties, apply his mind and only from the materials available before him, if he is satisfied that the land belongs to the religious institution or given or endowed to the religious institution, then, he shall refuse to register such deed.

26. 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



WEB COPY

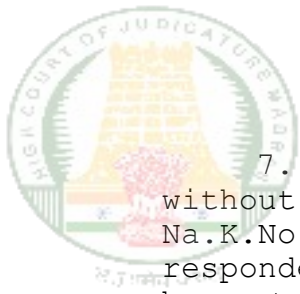
document by accepting the objections raised under Section 22-A of the Registration Act, the aggrieved may file a statutory appeal under the Act.

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

(vi) Consequently the connected miscellaneous petitions are closed. No costs....'



7. In the above consideration and circumstances of the case without conducting any enquiry, the impugned proceedings bearing Na.K.No.557/2021 on the file of the Sub Registrar, Mecheri/4th respondent dated 06.12.2021 has been passed which is liable to be set aside and accordingly, the impugned proceedings dated 06.12.2021 is set aside and the matter is remitted to the 4th respondent and he is directed to issue notice to the petitioners as well as the HR & CE department and after considering the objections and documents, if any, pass appropriate orders on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order.

8. Accordingly, this writ petition is disposed of. Consequently, the connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-IX)

// True Copy //

Sub Assistant Registrar

gba

To

1.The Commissioner,
Hindu Religious and Charitable Endowment,
Chennai.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Salem.

3.The District Registrar
Salem District.

4.The Sub Registrar,
Mecheri,
Salem District.

+1cc to Mr.M.Venkadesh Kumar, Advocate Sr.No.9089

+1cc to the Government Pleader Sr.No.9548, 9288

W.P.No. 2348 of 2022
and
W.M.P.No.2503 of 2022

PCH(CO)
RVM(07/03/2022)