

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.02.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.21649 of 2009

The Fit Person,
A/m. Veereswarasami Thirukoil,
Othakal Mandapam,
Coimbatore Taluk & District

... Petitioner

Vs.

1. The Sub Registrar,
Singanallur,
Coimbatore Taluk & District.

2.Sami Iyer
3.A.Ponnusamy
4.P.Pushpa

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the 1st respondent from registering and releasing the Sale Deed dated 29.05.2008 executed by the Power Agents of the 2nd respondent in favour of the 4th respondent within stipulated period of time granted by this Honourable Court.

For Petitioner : M/s. Kailasam & Associates

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader for R1

: No appearance for R3 and R4

O R D E R

The petitioner has filed this writ petition seeking issuance of a writ of mandamus to forbear the 1st respondent from registering and releasing the sale deed dated 29.05.2008 executed by the Power Agents of the 2nd respondent in favour of the 4th respondent.

2. The case of the petitioner is that Veereswarasami Thirukoil, Othakal Mandapam is situated between Coimbatore and Pollachi on the State Highway. The said temple owns large extent of lands admeasuring 23.4 acres in S.Nos.313,314, 315, 316, 317, 318 and 319 and in respect of the said land, a patta was issued in Patta No.515. The said temple had a poojari by name Sami Iyer, the second respondent herein, who was taking care of the said temple and its properties. The above said lands were Devadayam Inam lands granted in favour of the temple and the same is evidenced by the entries in the Inam "B" Register. In the settlement, the

Tahsildar, Gobichettipalayam, initiated *suo moto* enquiry for grant of Ryotwari Patta under the Madras Minor Inam (Abolition & Conversion into Ryotwari) Act, 1963. The 2nd respondent in his capacity as Poojari of the said temple gave evidence as PW-1 and specifically admitted that the said temple is under the control of HR&CE Department. While So, on 02.05.1967, the Settlement Tahsildar granted Ryotwari Patta in favour of the said temple (wrongly mentioned as Vigneswara Swami Temple) and the schedule would go to show that the survey numbers and the extent are the same as it exists now. Thereafter, there were various allegations of maladministration as against the 2nd respondent due to which the present petitioner was appointed as the Fit Person vide proceedings in Na.Ka.No.10738/2008/A1 dated 20.10.2008. Subsequently, the petitioner took care of the said temple and due to various irregularities committed by the 2nd respondent, charges were framed against the 2nd respondent by the Joint Commissioner in his proceedings dated 04.03.2009 and subsequently, the 2nd respondent was placed under suspension. The 2nd respondent, while he was in-charge of the said temple, attempted to sell the lands belonging to the said temple. While so, the 2nd respondent acting through his Power Agents has executed two sale deeds, both dated 29.05.2008 with

respect to the temple lands in the said survey numbers, in favour of the 3rd and 4th respondents. Hence, the present writ petition.

3. The learned counsel appearing for the petitioner would submit that in view of the evidence given by the second respondent in his capacity as Poojari that the temple is under the control of HR&CE Department, this Court may direct the respondents to conduct an enquiry as per Section 22-A of the Registration Act.

4. The learned counsel appearing for the 1st respondent did not dispute the facts submitted by the learned counsel for the petitioner.

5. Heard both sides.

6. The dispute in the present case is that the said temple had a poojai by name Sami Iyer, who was taking care of the said temple and its properties. Since, there were various allegations of maladministration as against the 2nd respondent, he was placed under suspension by the Joint Commissioner in his proceedings dated 04.03.2009. Thereafter, the present

petitioner was appointed as the Fit Person in place of the 2nd petitioner vide proceedings in Na.Ka.No.10738/2008/A1 dated 20.10.2008. It appears that the 2nd respondent had filed a writ petition in W.P.No.3366 of 2009 against the appointment of the petitioner as Fit person and subsequently the same was withdrawn by him on 11.06.2009. The grievance of the petitioner is that the 2nd respondent has attempted to execute two sale deeds, both dated 29.05.2008 with respect to the temple lands in the said survey numbers, in favour of the 3rd and 4th respondents.

7. Considering the facts and circumstances of the case it is relevant to refer to paragraphs 25 and 26 of the Division Bench judgment of this Court in ***Sudha Ravi Kumar v. The Special Commissioner & Commissioner, H.R & C.E. Department*** reported in ***2017 (3) CTC 135*** and the same is extracted hereunder:

"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 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...'

8. In view of the aforesaid submissions and the fact that the writ petition is pending from the year 2009, this Court directs the 1st respondent to hold an enquiry and pass appropriate orders, on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. Accordingly this writ petition is disposed of. No costs.

11.02.2022

gba

Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

1. The Secretary to Government,
Ministry of Urban and Housing Development,
Fort St. George, Chennai-01.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building, No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.
3. The District Collector,
Coimbatore District.
4. The Tahsildar,
Kalapatti Village, Coimbatore.
5. The Inspector General of Registration,

Santhome High Road, Mylapore,
Chennai - 600 028.

6. The Commissioner,
Coimbatore Corporation, Coimbatore.
7. The Commissioner of Police,
Coimbatore District.

M.DHANDAPANI,J.
gba/vsi2

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