

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2022

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.497 of 2015

1. Silambathal
2. K.Palanisamy
3. K.Sivaprakasam ..Petitioner

Vs.

1. The Inspector General of Registration,  
Santhome High Road, Mylapore,  
Chennai 600 004.
2. The Commissioner,  
Hindu Religious and Charitable Endowment,  
Nungambakkam High Road, Chennai 600 034
3. The Joint Commissioner,  
Hindu Religious and Charitable Endowment,  
Tiruppur - 4
4. The Executive Officer,  
Arulmighu Muthukumarasamy Thirukoil,  
Madhapur, Tiruppur.
5. The Sub Registrar,  
Palladam, Tiruppur District ..Respondents

Prayer :- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 5<sup>th</sup> respondent relating to the order dated 15.09.2014 in Check slip No.5/2014 and quash the same and consequently, direct the 5<sup>th</sup> respondent to register the mortgage deed dated 12.08.2014 presented by the petitioners.

For Petitioner : Mr.K.Venkatasubban  
for M/s.Sarvabhauman Associates

For Respondents: Mr.S.Arumugam

Government Advocate  
for R1 to R3  
Mr.K.Ashok Kumar for R4.

O R D E R

This writ petition has been filed challenging the check slip issued by the 5<sup>th</sup> respondent on 15.09.2014 and for a consequential direction to the 5<sup>th</sup> respondent to register the mortgage deed dated 12.08.2014.

2. The 5<sup>th</sup> respondent has filed a counter affidavit and has taken a stand that the Executive officer of Arulmighu Muthukumarasamy temple addressed a letter dated 16.08.2012 to the 5<sup>th</sup> respondent not to entertain any document for registration with respect to the properties that were mentioned in the said communication. Since the document presented by the petitioner also fell within the survey numbers mentioned in the above communication, a check slip was issued by the 5<sup>th</sup> respondent directing the petitioner to get a NOC from the concerned executive officer of the temple.

3. The petitioner has taken a very specific stand in the affidavit filed in support of the writ petition that the Settlement Tahsildar had granted patta to the petitioners father under the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 and thereby, they became the absolute owner of the subject property. The petitioner therefore states that there is no requirement to get No objection certificate from the executive officer of the temple.

4. The learned counsel appearing on behalf of the executive officer of the temple submitted that no patta was issued in favour of the petitioners and it was only a service Inam which does not give the petitioner a right to deal with the property.

5. In the considered view of this Court, the order of the Division Bench of this Court in [Sudha Ravi Kumar and another Vs. The Special Commissioner and Commissioner, HR&CE Department, Chennai and others] reported in 2017 3 CTC 135 will directly apply to the facts of the present case and the directions given by the Division Bench at Paragraph No. 25 will sufficiently take care of the rival claims made by both sides. For proper appreciation, paragraph 25 of the judgement is extracted hereunder :-

25. 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.

6. This writ petition is disposed of with a direction to the 5<sup>th</sup> respondent to follow the directions issued by the Division Bench and take a decision with respect to registration of the document or otherwise, within a period of eight weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,  
Santhome High Road, Mylapore,  
Chennai 600 004.
2. The Commissioner,  
Hindu Religious and Charitable Endowment,  
Nungambakkam High Road, Chennai 600 034
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4. The Executive Officer,  
Arulmighu Muthukumarasamy Thirukoil,  
Madhapur, Tiruppur.
5. The Sub Registrar,  
Palladam, Tiruppur District

+1cc to M/s.Sarvabhuman Associates, Advocate, S.R.No.38480

+1cc to Mr.K.Ashok Kumar, Advocate, S.R.No.39566

+1cc to the State Government Pleader, S.R.No.38993

W.P.No.497 of 2015

SKM(CO)  
SB(14/07/2022)