

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.14839 of 2022

A.Kathirvel

... Petitioner

vs.

1. The District Registrar,
Department of Registration,
Salem.
2. The Sub-Registrar,
Sooramangalam Sub-Registration Office,
Salem.
3. The Commissioner,
Department of Hindu Religious and Charitable Endowments,
No.119, Uthamar Gandhi Road,
Chennai - 600 034.
4. The Assistant Commissioner,
Department of Hindu Religious and Charitable Endowments,
Kotamariamman Temple Campus,
behind Old Bus Stand,
Salem, 636 001.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned refusal slip of the second respondent dated 29.03.2012, made in refusal No.RFL/Sooramangalam/75/2022 and to quash the same and consequently direct the second respondent to register the sale agreement presented on 29.03.2022 in respect of the property comprised in Survey Nos.1/1 situate at Sooramangalam Village, Salem District to an extent of 2.03 acres forthwith and to return the original document to the petitioner.

For Petitioner : Mr.C.Prabakaran

For Respondents : Mr.Yogesh Kannadasan
R1 & R2 Special Government Pleader

Geetha Thamaraiselvan
Special Government Pleader for R3 and R4

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus to call for records relating to the impugned refusal slip of the second respondent made in refusal check slip No.RFL/Sooramangalam/75/2022 dated 29.03.2022 and to quash the same and consequently direct the second respondent to register the sale agreement presented on 29.03.2022 in respect of the property comprised in Survey No.1/1 situated in Sooramangalam Village, Salem District of an extent of 2.03 acres forthwith and to return the original document to the petitioner.

2. The case of the petitioner is that originally the property in S.Nos.1/1, 1/3 of an extent of 2.87 acres situated in Sooramangalam Village, belongs to one Kandagounder Poosari. The said Kandagounder had two sons namely Arumugam and Sundaram. After the demise of said Kandagounder, his legal heirs were in possession and enjoyment of the said property. Thereafter, the said Sundaram and Arumugam executed a partition deed and they alienated the property in S.No.1/1 in favour of one Paapammal and she executed a settlement deed in favour of her son and grandsons namely Thangaraj, Mohan Raj and Babu from whom the petitioner intended to purchase the property and towards the same document was executed and presented before the 2nd respondent on 29.03.2022 but the same was refused vide Refusal Check Slip No. RFL/Sooramangalam/75/2022 dated 29.03.2022 stating that the said property S.No.1/1 belongs to H.R.&C.E. Department. Challenging the same, the present Writ Petition is filed seeking for the aforesaid relief.

3. Learned counsel for the petitioner submitted that though the properties in S.Nos.1/1 and 1/3 belong to Kandagounder, subsequently after his demise, his legal heirs namely Arumugam and Sundaram were in possession and enjoyment of the said properties. Thereafter, by way of partition deed, the legal heirs of Kandagounder alienated the property in S.No.1/1 in favour of one Paapammal and the said Paapammal executed a settlement deed in favour of her son namely Thangaraj and grandsons, from whom the petitioner intended to purchase the property and the sale deed was presented before the second respondent for registration and the same was refused on 23.03.2022, stating that the property in S.No.1/1 belongs to Arulmigu Kanthasamy Thirukovil. Since all the title deed, parent document and Revenue Records were mutated in favour of said Thangaraj, the second respondent refusing to register the document is not sustainable one. Aggrieved by the same the present Writ Petition has been filed.

4. Mr.Yogesh Kannadasan, learned Special Government Pleader

appearing for respondents 1 and 2, Mrs.Geetha Thamaraiselvan, learned Special Government Pleader appearing for respondents 3 and 4 submitted that originally the property in S.Nos.1/1 and 1/3 was owned by said Kandagounder, thereafter the said Kandagounder executed a settlement deed in respect of S.No.1/1, in favour of the said Temple vide Document No.1729 of 1941 dated 12.06.1941. Suppressing the above facts, subsequent alienation has been made at the instance of the legal heirs of Kandagounder which is not permissible one. He further submitted that the entire property in respect of S.No.1/1 vests with the Temple and if at all the petitioner has any grievance, he has to approach the competent Civil Court to substantiate his title. Hence, they prayed for dismissal of this Writ Petition.

5. Heard the arguments advanced on either side and perused the materials placed on record.

6. In the case on hand, the petitioner claims that he intended to purchase the property in S.No.1/1 from one Thangaraj however, the H.R.&.C.E. Department claims that earlier, in point of time, the said property was settled by said Kandagounder in favour of Temple in the year 1941. The title to the property itself being disputed the refusal of the Registering Authority to approve the said alienation in favour third party cannot be faulted with. Further, the amendment brought in to Section 22-A of the Registration Act, provides for the registering officer to refuse to register the document presented for registration, in case the registering authority is of the view that if the property in question cannot be alienated in favour of private parties without obtaining 'No Objection Certificate' from the Public Authority. In the case on hand, the matter being purely a civil dispute and pertains to disputed question of facts the same cannot be entertained under Article 226 of the Constitution of India.

7. In view of the above, the prayer sought for by the petitioner cannot be granted. Accordingly this Writ Petition is dismissed with liberty to the petitioner to work out his remedy in the manner known to law. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

RAP

To

1. The District Registrar,
Department of Registration,
Salem.
2. The Sub-Registrar,
Sooramangalam Sub-Registration Office,
Salem.
3. The Commissioner,
Department of Hindu Religious and Charitable Endowments,
No.119, Uthamar Gandhi Road,
Chennai - 600 034.
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Department of Hindu Religious and Charitable Endowments,
Kotamariamman Temple Campus,
behind Old Bus Stand,
Salem, 636 001.

+1cc to Mr.C.Prabakaran, Advocate, S.R.No.36632

+1cc to the Government Pleader, S.R.No.36965

W.P.No.14839 of 2022

SKM(CO)
CT/12/07/2022