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W.P.No.28824 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2022

CORAM:

THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.Nos.28824 of 2022

and

W.M.P.Nos.28110 & 28111 of 2022

L.Murugaiah

. . . Petitioner

Vs.

1. The Sub-Registrar,
Sub-Registrar office,
Thondamuthur,
Coimbatore Registration District,
Coimbatore-641016.

2. Executive Officer,
A/M Srinivasa Varadaraja Peruma Temple,
Sundappalayam,
Coimbatore-641007.

. . . Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the Refusal Number RFL/Thondamthur, (CHECK SLIP.01/2022) dated 03.01.2022 on the file of the Sub-Registrar, Thondamuthur the first



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respondent herein and the letter, dated 07.09.2021 addressed by the second respondent to the first respondent directing the 1st respondent herein not to register the documents pertaining to S.No.518/1 and 2, New S.No.681/1, Veerakeralam Village, Coimbatore District and as communicated by the first respondent by his letter, dated 18.05.2022 to the petitioner herein and to quash the same and consequently issue appropriate directions directing the first respondent herein to register the Deed of Settlement, dated 03.01.2022 and executed by the petitioner in favour of his wife Mrs.M.Neela or any other documents and within such time as may be prescribed by this Hon'ble Court.

For Petitioner : M/s.N.Damodaran

For Respondents : Mr.E.Vijay Anand,
Additional Government Pleader for R1.

: Mr.N.R.R.Arun Natrajan,
Special Government Pleader (HR & CE) for R2

ORDER

The present petition has been filed seeking to quash the Refusal Check Slip dated 03.01.2022 which was passed by the 1st Respondent, the letter, dated 07.09.2021 addressed by the second respondent to the first respondent directing the 1st respondent herein not to register the documents



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pertaining to S.No.518/1 and 2, New S.No.681/1, Veerakeralam Village, Coimbatore District and the letter dated 18.05.2022 which was issued by the 1st respondent, communicating the aforesaid to the petitioner and to direct the first respondent herein to register the Deed of Settlement, dated 03.01.2022 which was executed by the petitioner in favour of his wife viz., Mrs.M.Neela.

2. It is the case of the petitioner that he is the owner of the property comprised in Survey No.518/1 by virtue of separate sale deeds dated 23.01.2014 & 15.02.1996. The petitioner had executed a settlement deed in favour of his wife viz., M.Neela in respect of the above said property and placed the same for registration before the 1st respondent. However, the 1st respondent had refused to register the same on the ground that, New Survey No.681 which was allotted for Survey Nos. 518/1 & 518/2 situated at Veerakeralam Village, Perur Taluk, Coimbatore District belongs to the 2nd respondent temple. Challenging the said order, the present petition has been filed.



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3. Learned counsel for the petitioner submits that though the impugned order reveals that the above lands belong to the 2nd respondent temple, however, no materials have been placed to substantiate the same and hence the same cannot be a bar for registration of the document. Therefore, the order impugned in this Writ Petition needs interference.

4. On the above contentions, this Court, heard the Learned Counsel appearing for respondents 1 & 2 and perused the materials available on record.

5. A perusal of the impugned order reveals that the petitioner's claim was rejected on the ground that the subject property belongs to the 2nd respondent Temple. However, no materials have been placed before this Court to show that the said property belongs to the 2nd respondent temple. That being the case, merely on the basis of the objections raised by the 2nd respondent, the registering authority cannot refuse to register the document placed for registration. Hence, the impugned order passed by the 2nd Respondent is liable to be interfered with.



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6. Further, the issue involved in the present case is no longer *res integra* as similar issue was considered by this Court in the case of ***Sudha Ravi Kumar and Ors Vs. The Special Commissioner, Hindu Religious and Charitable Endowments Department and Ors*** in W.P.Nos.30589 of 2013 etc batch vide order dated 05.04.2017. The relevant portion of the order is extracted under as:

“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) Th 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 Registration Act, the aggrieved any file a statutory appeal under the Act.

(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



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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.

(v) Consequently, the connected Miscellaneous Petitions are closed. No Costs.”

In view of the above, the order impugned in this Writ Petition which came to be passed by the 2nd respondent, is set aside and the matter is remanded to the 2nd respondent for fresh consideration in terms of the order passed by this Court in W.P.Nos.30589 of 2013 etc batch vide order dated 05.04.2017 and pass appropriate orders within a period of six weeks from the date of receipt of a copy of this order.

7. Accordingly, this Writ Petition is allowed in the above terms. No Costs. Consequently, the connected Miscellaneous Petitions are closed.

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To

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M.DHANDAPANI, J.

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