



W.P.No.28922 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2022

CORAM:

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

W.P.No.28922 of 2022

and

W.M.P.No.28218 of 2022

1.C.Theivasigamani

2. C.Subramaniam

. . . Petitioners

Vs.

1.The District Registrar,
District Registrar Office,
1/529. Neruperichal,
Pooluvapatti-641 602,
Tiruppur District.

2. The Joint Sub Registrar No.1,
District Registrar Rank,
Tiruppur,
Tiruppur District.

3. Arulmighu Perumpannai Varadharaja
Perumal Thirukoil rep by its
The Executive Officer,
Kovil Vazhi Angalamman Temple,
Muthanampalayam Village,
Tiruppur Taluk,
Tiruppur District.

. . . Respondents



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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 impugned Refusal Check Slip in RFL/Joint Sub Registrar 1, Tiruppur/Book 2/2 dated 10.08.2022 issued by the 2nd respondent, Quash the same and consequently to direct the 2nd respondent to register the mortgage deed dated 19.05.2022 (Pending Doc.No.27/2022) executed by the petitioners to Tmt.Sagunthala in respect of the property measuring 43,603 sq.ft., out of 3.24 acres bearing S.F.No.316/2, now sub divided as S.F.No.316/2C2 of Muthanampalayam Village, Tiruppur District.

For Petitioner : M/s.N.Manokaran

For Respondent : Mr.G.Krishna Raja,
Additional Government Pleader for R1 & R2.

: Mr.N.R.R.Anand Natarajan ,
Special Government Pleader for R3

ORDER

The present petition has been filed seeking to quash the impugned refusal check slip dated 10.08.2022 which came to be issued by the 2nd respondent and to direct the 2nd respondent to register the mortgage deed dated 19.05.2022 which was executed by the petitioners in favour of one Rmt.Sagunthala in respect of the property measuring to an extent of about



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43,603 sq.ft., out of 3.24 acres bearing S.F.No.316/2, now sub-divided as S.F.No.316/2C2 of Muthanampalayam Village, Tiruppur District.

2. It is the case of the petitioner that, initially, the subject lands were granted for the support of the 3rd respondent temple as per TD No.130 and the said lands were taken over by the Government under Section 3 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 and Ryotwari Patta was granted in respect of the above lands under Section 8(2)(i)(b) of the Tamil Nadu Minor Inams Act 1963, against which, CMA No.429 of 1969 was filed by the land owners, before the Minor Inams Tribunal/Principal Sub Court, Coimbatore along with CMA No.311 of 1969 and the same was allowed by way of a common order, based on which, after conducting an enquiry, Patta, which was issued in favour of the 3rd respondent, was canceled in the year 1972, vide order dated 10.10.1972. However, no appeal was preferred as against the said order.

3. It is the further case of the petitioners that in respect of the above lands, their mother viz., Tmt.Shakuntala had executed a Settlement Deed



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dated 19.06.1986 in favour of the petitioners, in turn, the petitioners have executed the mortgage deed dated 19.05.2022 in favour of their mother viz., Sakunthala and placed the same for registration before the 2nd respondent, however, the 2nd respondent had refused to register the said document in view of Section 22 A (1) and (2) of the Indian Registration Stamp Act, 1908 on the objections raised by the 3rd respondent temple, vide the impugned order dated 10.08.2022. Challenging the same, the present petition has been filed.

4. Learned counsel for the petitioners submitted that once patta has been issued under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963, the registering authority is bound to act on the basis of the patta which was issued by the competent authority and not on the basis of the objections raised by the 3rd respondent temple which holds no title over the said land as the Patta issued in their favour was cancelled by the competent authority and no materials have been placed to show that the said land belongs to the temple. In the absence of any such material, refusing to register the subject document is wholly unsustainable.



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Therefore, the order impugned in this Writ Petition is liable to be set aside.

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5. On the above contentions, this Court, heard the learned Additional Government Pleader appearing for respondents 1 & 2 and the learned counsel appearing for the 3rd respondent and perused the materials available on record.

6. A perusal of the materials available on record reveals that though, initially, the above said lands were allotted in respect of the 3rd respondent temple, however, patta which was issued in their favour, was cancelled by the competent authority on the basis of the orders passed by the lower court, against which, no appeal was preferred and Patta stands in the name of the petitioners. Further, no materials have been placed before this Court to show that the above said land belongs to the temple. That being the case, merely on the basis of the objections raised by the 3rd 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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7. The issue involved in the present case is no longer *res integra* as the 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 opportunity for filing a statutory appeal.



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(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.

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

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Index : Yes / No

Internet : Yes / No

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M.DHANDAPANI, J.

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To

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