



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2022

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.10669 of 2009

and

W.M.P. (MD) Nos.1 and 2 of 2009

Pillayan Kattalai
Represented by
The Executive Officer,
Tirunelveli,
Tirunelveli District.

...Petitioner

Vs.

1.The Tahsildar,
Palayamkottai,
Tirunelveli District.

2.The Sub Registrar,
Melapalayam Sub Registry,
Tirunelveli.

3.N.Chellappa,
Represented through his Power Agent,
P.Shanmuga Sudaram Pillai.

4.Lakshmi. ...Respondents
**(*R3 dismissed for default vide order of this Court,
dated 30.09.2010)**

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the second respondent not to register the sale document in R.S.No.162/2 at Melathidyur Village, Palayamkottai Taluk, Tirunelveli District submitted by the third respondent.

For Petitioner

: No Appearance

For R1 and R2

: Mr.D.Ghandiraj
Special Government Pleader

For R4

: Mr.K.P.S.Palanivel Rajan



ORDER

No representation on behalf of the petitioner. However, let me not keep the Writ petition pending on the file of this Court any further.

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2.Heard Mr.D.Ghandiraj, learned Special Government Pleader who appears on behalf of the respondents 1 and 2 and Mr.K.P.S.Palanivel Rajan, learned Counsel who appears for the fourth respondent.

3.There is also another petition filed in M.P(MD)No.2 of 2009, seeking to implead the Commissioner, Hindu Religious and Charitable Endowment Department, Chennai as a proposed respondent.

4.The Writ Petition has been filed in the nature of Mandamus, seeking a direction against the second respondent/the Sub Registrar, Melapalayam Sub Registry, Tirunelveli, not to register any sale deed with respect to R.S.No.162/2 at Melathidiyur Village, Palayamkottai Taluk, Tirunelveli District, if at all any document is presented by the third respondent.

5.Even according to the petitioner, the said property belongs to Pillaiyan Kattalai, which endowment owns 0.23 cents of dry lands in R.S.No.162/2 at Melathidiyur Village, Palayamkottai Taluk, Tirunelveli District. The total extent of R.S.No.162/2 is 86.5 cents. The property is owned by the Kattalai without partition.

6.Once that is a situation, it will be highly impossible for the Sub Registrar to examine and register any document.

7.The learned Counsel for the fourth respondent stated that the fourth respondent had presented a document for registration but, that was not registered owing to a protest by the petitioner herein.

8.Section 22A(ii) of the Registration Act reads as follows:

'(ii)belonging to, or given or endowed for the purpose of any religious institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) is applicable;'

9.It is thus seen that an embargo is placed on the registering authorities, that they cannot register and as a matter of fact must refuse to register any document which had been given as an endowment for the purpose of any religious institution to which the Tamil Nadu Hindu Religious and Charitable Endowment Department Act, 1959 is applicable. The property here is directly covered as an endowment and this is the assertion made by Mr.D.Ghandiraj, learned Special Government Pleader.



10.It is therefore, evident that the second respondent can never register any document so long as, the property is not partitioned and also since the property belongs to the Pillaiyan Kattalai, which is infact the petitioner represented by the Executive Officer.

11.Therefore, even though the learned Counsel for the petitioner is not present, a Mandamus is directed to the second respondent not to register any document with respect to lands in R.S.No.162/2, Melathidyur Village, Palayamkottai Taluk, Tirunelveli District, since the lands come under Section 22A(ii) of the Registration Act, 1959.

12.With the above direction, this Writ petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petitions are also closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

lr

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Tahsildar,
Palayamkottai,
Tirunelveli District.

2.The Sub Registrar,
Melapalayam Sub Registry,
Tirunelveli.

+1 CC to M/s.SPL.GP (SR-2808[F] dated 28/01/2022)

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27.01.2022

RK(15/02/2022) 3P 4C