



W.P(MD)No.15816 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15816 of 2020

Sri Thirumalai Raja

... Petitioner

Vs.

1.The Inspector General of Registration,
Santhome High Road, Chennai-4.

2.The District Registrar,
(Department of Registration),
Palani.

3.The Sub Registrar Joint II,
Palani, Dindigul District.

4.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Board,
Dindigul.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the third respondent to register the document of the property belongs to the petitioner with respect to old T.S.No.46 and New T.S.No.18/1 situated in Block No.3, Ward No.4, Anganamudhali Street, Palani Town, Dindigul District measuring an extent of 2180 sq. feet without insisting “No Objection Certificate” from the fourth respondent.



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For Petitioner : Mr.M.Vallinayagam
Senior Counsel
for Mr.M.Gnanagurunathan

For R1 to R3 : Mr.J.K.Jayaseelan
Government Advocate

For R4 : Mr.M.Lingadurai
Special Government Pleader

ORDER

Heard the Senior Counsel appearing for the petitioner and the learned Government Advocate appearing for R1 to R3 and the learned Special Government Pleader appearing for R4.

2. The property in question originally belonged to one Swami Sivanesam. During his life time, he executed a Will dated 06.11.1965. It was also registered as a document. One Sivaji Gounder was appointed as the custodian of the properties covered by the Will. The Will had two schedules annexed to it. It was stipulated that the property covered under Schedule-I could not be encumbered or alienated. However, there was no such restriction in respect of the property covered under Schedule-II. The custodian Sivaji Gounder was permitted to alienate the same.



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3. However, the learned Special Government Pleader appearing for HR & CE Department stated that the property had been endowed in favour of the Mutt and that charge had been created in favour of the Mutt. However, he would concede that there is no restriction regarding alienation in respect of the schedule-II properties.

4. It is seen that Sivaji Gounder alienated the schedule-II property in favour of the petitioner on 13.06.2011. The petitioner now wants to make further alienation. Be that as it may, on account of the objection raised by the fourth respondent, the third respondent declined to register the document. That led to filing of this writ petition.

5. It is brought to my notice by the learned Senior Counsel appearing for the writ petitioner that even during the pendency of the writ petition, the second respondent had issued an order that the registration can be done. He further held that No Objection Certificate from the HR & CE Department is not required. Be that as it may, even according to the fourth respondent, the property in question falls in the second schedule of the Will dated 06.11.1965 executed by Swami Sivanesan. The question of obtaining No Objection Certificate from the fourth respondent would obviously not arise.



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6. The third respondent is therefore directed to entertain the document in question and register the same and also release it subject to fulfilment of the usual formalities. If according to the fourth respondent, there is a charge over the property, it is always open to the fourth respondent to enforce the charge in the manner known to law.

7. The Writ Petition is allowed accordingly. No costs.

25.07.2022

Index : Yes / No
Internet : Yes/ No
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To

- 1.The Inspector General of Registration,
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(Department of Registration),
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- 3.The Sub Registrar Joint II,
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- 4.The Assistant Commissioner,
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G.R.SWAMINATHAN, J.

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