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W.P.(MD)Nos.18458 and 18459 OF 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.18458 and 18459 of 2021 and
W.M.P.(MD)Nos.15235 & 15236 of 2021

N.Reveatha ... Petitioner
in W.P(MD)No.18458 of 2021

S. Baskar @ S.Nagaraj ... Petitioner
in W.P(MD)No.18459 of 2021

Vs.

1. The Sub Registrar Joint II,
Velunachiyar Compound,
Dindugal.
2. S.V. Balsamy Iyer & Brothers Balathirupathi Chattram,
Represented by its present Manager Mr.S.K. Ganesan,
No.67/71E,
S.V. Balusamy Iyer Compound,
Thadikombu Road,
Dindigul-624 001.
3. Arulmigu Soundarraja Perumal Thirukovil,
Rep. by its Executive Officer,
Thadikombu,
Dindigul.
(R-3 is impleaded vide order dated 29.03.2022
in WMP(MD)Nos.2350 & 2356 of 2022) ... Respondents
in all petitions

Common Prayer: Writ petitions filed under Article
226 of the Constitution of India, to issue a Writ of
Certiorarified Mandamus, to call for the records culminating



the refusal order in temporary register numbers TP/105796290 and TP/105781195 dated 29.09.2021 passed by the first respondent and quash the same and direct the first respondent to register the lease agreement bearing temporary register number TP/105796290 and TP/105781195 dated 29.09.2021.

(In all Wps.)

For Petitioner : Mr.N. Anandha Padmanabhan
For R-1 : Mr.K.S. Selva Ganesan,
Additional Government Pleader.

For R-2 : Mr.K. Dinesh

For R-3 : Mr.S. Manohar

* * *

COMMON ORDER

Heard the learned counsel on either side.

2. The second respondent trust is the title holder in respect of the petition mentioned property. They had leased out the same in favour of the writ petitioners for valuable consideration. The transaction has been duly reduced into writing. When it was presented for registration before the first respondent, the first respondent returned the same on the



ground that the third respondent herein had obtained a decree restraining the trust from alienating the petition mentioned property. The decision of the first respondent is put to challenge in this writ petition.

3. There is no dispute that the property in question is a trust property. There is also no dispute that a decree has been obtained against alienation of the same. But the question that arises for consideration is whether the restraint order against alienation would also include the right of the trust to lease out the property.

4. As rightly pointed by the learned counsel appearing for the petitioners, right to lease is an incident of administration and will not amount to alienation in the facts and circumstances of the case. The property by itself will not fetch any revenue. Unless it is leased out, the coffers of the trust will remain dry and empty. Only for this reason, the transaction has been entered into. The petitioners inform the Court through counsel that they will only enjoy the status of lessees and they will not make any claim of ownership. If the



third respondent temple has any right over the property, the same will be respected. Recording the undertaking given by the petitioners, the impugned refusal orders passed by the first respondent are quashed. The petitioners are permitted to lease out and the first respondent shall register the same subject to fulfillment of the usual formalities. These writ petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

08.07.2022

Index : Yes / No
Internet : Yes/ No

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To:

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G.R.SWAMINATHAN,J.

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