



W.P(MD)No.6337 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2022

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.6337 of 2015

and

M.P(MD)No.1 of 2015

R.Senthil Visak

... Petitioner

Vs.

1.The Sub Registrar,
Thiruthangal,
Sivakasi Taluk,
Virudhunagar District.

2.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Sivagangai,
Sivagangai District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to for the records of the 1st respondent in No.330 of 2014 dated 23.01.2015 and quash the same and consequently direct the 1st respondent to release the document after registering pending Doc.No.42 of 2014 (SRO Thiruthangal).



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For Petitioner : Mr.S.Ashok Kumar
For R1 : Mr.K.S.Selvaganesan
Additional Government Pleader
For R2 : Mr.P.Subbaraj
Special Government Pleader

ORDER

The present writ petition has been filed challenging an order passed by the 1st respondent herein, wherein the 1st respondent has refused to entertain a settlement deed for registration, executed by the writ petitioner in favour of his son.

2. According to the learned counsel for the petitioner, the 2nd respondent has issued a communication to the 1st respondent that the survey number in dispute belongs to Sri Visvanatha Swami Temple, Sivakasi and hence, no document should be registered pertaining to the said survey number. The said order is under challenge in the present writ petition.



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3. According to the learned counsel for the petitioner, Sri Visvanatha Swami Temple, Sivakasi represented by their Executive Officer, had filed O.S.No.166 of 2003 on the file of the District Munsif Court, Sivakasi as against the District Registrar and the Sub Registrar for a permanent injunction, restraining the authorities from registering any document without getting No Objection Certificate from the Temple. The said suit was dismissed on 20.06.2006. The first appeal filed by the Temple in A.S.No.33 of 2006 was also dismissed for default by the learned Subordinate Judge on 19.02.2008. Hence, according to the learned counsel for the petitioner, question of obtaining No Objection Certificate from the 2nd respondent herein or from any of the authorities under the Hindu Religious and Charitable Endowments Act would not arise in view of the dismissal of O.S.No.166 of 2003 and confirmation of the same in A.S.No.33 of 2006.

4. Per contra, the learned Special Government Pleader appearing for the 2nd respondent herein had contended that the lands belonged to the Sri Visvanatha Swami Temple, Sivakasi and they are under the management and the administration of the 2nd respondent. The dismissal of the suit will not confer any right upon the writ petitioner to execute



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any settlement deed in favour of his son. He further submitted that proceedings have been initiated to restore A.S.No.33 of 2006, which is said to have been dismissed for default on 19.02.2008. When the survey numbers belonged to the Temple are under the administration of the 2nd respondent herein, the petitioner cannot be permitted to register any document without No Objection Certificate from the 2nd respondent. Hence, he prayed for dismissal of the writ petition.

5. I have carefully considered the submissions made on either side.

6. Admittedly, the survey number in dispute is Survey Nos.1474 and 1475 of Keelathiruthangal Village Sub Registrar Office, Virudhunagar District.

7. In view of the fact that the civil suit filed by the Temple has already been dismissed and the appeal has been dismissed for default, the document presented by the writ petitioner shall be registered by the 1st respondent herein, if it is otherwise in order. However, any registration of the document will be subject to the result of A.S.No.33 of 2006 on the file of the Sub Court, Sivakasi.



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8. With the above said observations, this Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index : Yes / No
Internet : Yes / No
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To

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R.VIJAYAKUMAR ,J.

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Order made in
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