



W.P(MD).No.2588 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 17.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.2588 of 2016

K.Abul Hasan Maraikayar

... Petitioner

-VS-

1. The District Registrar,
Ramanathapuram,
Ramanathapuram District.

2. The Sub Registrar,
Office of the Sub Registrar,
Velipattanam,
Ramanathapuram,
Ramanathapuram District.

3. The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Paramakudi,
Ramanathapuram District.

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent herein in his proceedings in Memorandum No.2/2013, dated 03.07.2013 and quash the same and direct the second



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respondent to register the Document in respect of the land situated in Survey No.440/41, measuring 5 cents in Pattanamkathan Village, Ramnad District as an when the documents presented for registration by the petitioner.

For Petitioner : Mr.G.Chandrasekar
For R-1 & R-2 : Mr.S.R.A.Ramachandran
Additional Government Pleader
For R-3 : Mr.P.Subbaraj
Special Government Pleader

ORDER

The present Writ Petition has been filed challenging a Memo issued by the second respondent herein, refusing to entertain a Sale Deed presented for registration, on the ground that the land belongs to Subramania Swamy Temple, Melayakudi Village, Paramakudi Taluk, Ramanathapuram District.

2. According to the learned Counsel for the petitioner, he is the absolute owner of the property and there are no documents in favour of the Temple. However, based upon a letter addressed by the Inspector General of Registration, dated 18.02.2009, the second respondent has refused to entertain the Document. Hence, the present Writ Petition.



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3. Per contra, the learned Special Government Pleader appearing for the third respondent had relied upon a registered Will in Document No.2 of 1925, dated 08.09.1924, under which, he claims that the property has been endowed in favour of the Temple. He further relied upon the Temple records to indicate that Survey Number in dispute is a Temple property. However, according to the learned Counsel for the petitioner, these documents do not reflect that the land belongs to the Temple or some erroneous self serving entries have been made by the third respondent or Temple concerned.

4. The learned Counsel for the petitioner brought to the notice of this Court the ***Judgment of the Honourable Division Bench in (Sudha Ravi Kumar Vs. The Special Commissioner and Commissioner of Hindu Religious and Charitable Endowments Department) reported in (2017) 3 CTC Page 135.*** The Honourable Division Bench of this Court has laid down the procedure to be followed by the registering authorities whenever an objection is raised by the Temple relating to the registration of a document. If an objection is raised as contemplated under Section 22-A of Registration Act, the Sub Registrar has been directed to conduct a summary enquiry after giving due opportunity to both the parties. Paragraph No.26 of the said



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judgment of this Court, is extracted as follows:-

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26. In view of the above discussions, all the Writ Petitions are allowed and the impugned orders are set aside with the following directions:

(i) The 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 Act by the religious institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a Writ Petition seeking cancellation of the registration or for any other relief or to approach the civil Court for declaration of the title and for other consequential reliefs.

(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



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parties to the deed will be at liberty to straightway approach the civil Court for declaration of title and other relief without availing the opportunity for filing a statutory appeal.

5. In view of the above said judgment of the Honourable Division Bench of this Court, in the present case, neither the petitioner nor the third respondent Temple has been called for a summary enquiry and the written Memo has been issued by the second respondent herein. Accordingly, the written Memo impugned in the Writ Petition is set aside and the matter is remitted back to the file of the second respondent herein. The second respondent shall adhere to the judgment of the Honourable Division Bench of this Court as cited *supra* and the aggrieved party is directed to follow the procedure laid down in the said judgment.

6. With the above said observation, this Writ Petition stands allowed.

There shall be no order as to costs.

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