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W.P.No.1334 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.1334 of 2023

and

W.M.P.No.1389 of 2023

Mohamed Abdul Azeez

...Petitioner

Vs.

- 1.The Sub-Registrar,
Poonamallee Sub-Registrar Office,
Poonamalle, Chennai – 600 056.
- 2.The Commissioner,
Hindu Religious and Charitable Endowments Department,
No.119, Uthamar Gandhi Road,
Nungambakkam,
Chennai - 600 034.
- 3.The Joint Commissioner,
Hindu Religious and Charitable Endowments Department,
No.11/20, A.K.Thangavellar Street,
Kancheepuram – 631 501.
- 4.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
District Collector's Office Campus,
Kancheepuram – 631 501.



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5.The Inspector,
Hindu Religious and Charitable Endowments Department,
Sriperumbudur, Kancheepuram – 602 105.

6.Indian Bank,
Rep. by its Authorized Signatory,
Poonamallee Branch,
No.749 F – Judge Chellappa Naicker Street,
Poonamallee,
Chennai – 600 056.

7.T.S.Krishnan

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the impugned letter bearing Na.Ka.No.15 of 2022 dated 02.03.2022 issued by the fifth respondent to the first respondent in respect of all the approved plots comprised in S.No.25/2 in Agaramel Village, Poonamallee Taluk, Thiruvallur District and to quash the same and to consequently directing the first respondent to register the documents pertaining to the said plots.

For Petitioner : Mr.M.S.Rishi

For Respondents : Mr.N.Naveen Kumar
Government Advocate for R1



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: Mr.N.R.R.Arun Natarajan
Special Government Pleader (HR & CE)
for R2 to R5

ORDER

This Writ Petition is filed challenging the communication of the fifth respondent dated 02.03.2022 addressed to the first respondent requesting him not to entertain any documents for registration in respect of 19 items of the properties mentioned in the communication.

2. The communication was made by the fifth respondent mainly on the ground that the properties mentioned therein are subject matter of the Will executed by one Veeravalli Pattammal @ Thiruvenkadammal wife of Krishnamachariyar. In the said Will, the properties referred to in the communication alleged to have been endowed for performing certain rituals and Dharmam in various temples viz., Sri Pachai Varana Perumal Devasthanam and Sri Amirthavalli.



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3. The learned counsel for the petitioner by taking this Court to the clauses of the Will executed by Veeravalli Pattammal @ Thiruvenkadammal submitted that as per the conditions laid in the Will, the executor of the Will is entitled to sell the properties, if there is no income from the properties earmarked for the performance of Dharmam and make deposit of the sale proceeds for the purpose of continuing the Dharmam. One of the purchased item covered under the Will, namely property in S.No.25/2 is an extent of 1.51 acres.

4. In support of his contention, the learned counsel for the petitioner also relied on the judgment of Hon'ble Division Bench of this Court in ***Sudha Ravi Kumar and another Vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department, Chennai 34 and others***, reported in ***2017 SCC Online Mad 19191***.

5. The learned Special Government Pleader appearing for the respondents 2 to 5 submitted that under the Will executed by Veeravalli Pattammal @ Thiruvenkadammal, a specific endowment was created for doing



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rituals service and therefore, the executor is not entitled to sell the properties.

proceeds. Even assuming that the executor is empowered to sell the properties, it can be done, only after necessary permission from the Court. In the case on hand, the properties said to have been sold to number of persons by the executor without following any process of law.

6. It is also submitted by the learned Special Government Pleader appearing for the respondents 2 to 5 that various Dharmam mentioned in the Will is not at all taking place. In such circumstances, in order to get revenue from the properties of the specific endowment, the impugned communication has been sent by the fifth respondent requesting the first respondent not to entertain the registration of the documents.

7. The Hon'ble Division Bench of this Court in ***Sudha Ravi Kumar and another Vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department, Chennai 34 and others***, reported in ***2017 SCC Online Mad 19191***, while considering power of the Sub Registrar available under **Section 22(A)** of the Registration Act, has issued following direction in para No.26, which reads thus:



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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 parties to the deed will be at liberty to straightaway approach the Civil Court for declaration of title and other relief without



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availing the opportunity for filing a statutory appeal.

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(v) We further direct that if the deed has already been registered without there being any objection by the religious institution under Section 22-A of the Act, the document shall be returned to the parties concerned leaving it open for the religious institution to approach either the High Court under Article 226 of the Constitution of India or the Civil Court for appropriate relief as indicated above. At any rate, the registering authority shall not withhold the deed which has already been registered."

8. In the case on hand, the fifth respondent sent a communication to the first respondent not to entertain any documents for registration of properties in respect of 19 items mentioned in the communication on the ground that it belongs to specific religious endowment. Therefore, the first respondent/Sub Registrar has not considered the same and passed any orders till date.

9. In the light of the directions issued by the Hon'ble Division Bench in the above mentioned case law, if any communication is received by the Sub Registrar from temple under Section 22 (A) of the Registration Act, the Sub Registrar shall conduct a summary enquiry and decide whether the



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documents presented for Registration can be entertained or not.

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10. It is also stated by the learned Special Government Pleader appearing for the respondents 2 to 5 till date, the petitioner has not presented any documents for registration before the first respondent. In such circumstances, if the petitioner wants to go ahead with the registration of any documents covering the properties mentioned in the impugned communication, as directed by this Court in the above mentioned case law, the first respondent is expected to conduct a summary enquiry after giving opportunity to the petitioner and also to the fifth respondent and take a decision with regard to the registration of the documents. If any order is passed by the first respondent in such enquiry, the parties aggrieved by the said order is entitled to approach the Civil Court or file an appeal as provided under the Registration Act in accordance with law.

11. With these observations, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

26.09.2023

Index : Yes
Internet : Yes
Neutral Citation Case : Yes



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