



W.P.No.1929 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.1929 of 2023

and

W.M.P.No.2015 of 2023

1. P.V.Sadhunraj

2. V.Kosala

... Petitioners

Vs.

1. The Commissioner,
Hindu Religious and Charitable Endowment,
Chennai.

2. The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Salem.

3. The District Registrar,
Salem District.

4. The Sub Registrar,
Mecheri Salem District.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, to call for the records in Na. Ka. No. 115 of 2022 on the file of the Sub Registrar, Mecheri, 4th respondent dated 30.06.2022 and quash the same and direct the 4th respondent to register the pending sale deed dated 24.07.2020.

For Petitioner : Mr.M.Venkadesh Kumar



W.P.No.1929 of 2023

For Respondents :
(for R1 to R2) : Mr.K.Karthikeyan, Govt.Advocate
(for R3 to R4) : Mr.C.Jaya Prakash, Govt.Advocate

ORDER

The order passed by the 4th respondent / Sub Registrar in proceeding dated 30.06.2022, is sought to be quashed in the present writ petition.

2.The writ petitioners state that they have purchased the subject property described in the writ petition. They have presented a sale deed for registration before the Sub Registrar Mecheri. The registering authority returned the document on the ground that the Hindu Religious and Charitable Endowment Department raised an objection with reference to the subject property. In view of the objections raised by the Temple Authorities, the Registering Authority cannot proceed with the registration in view of Section 22 (A) of the Registration Act.

3.The learned counsel for the petitioner mainly contended that the petitioners are the bona fide purchasers and their vendors inherited the property from their ancestors. The learned counsel for the petitioner relied



W.P.No.1929 of 2023

on the partition deed of the year 2002. However, there is no other previous document to establish that the property was purchased from a particular person. Since the partition deed is the origin shown before this Court, this Court cannot trust upon the title of the vendors to the writ petitioners.

4. Systematic and schematic grabbing of temple properties are being made in several cases. The persons grabbing the temple properties, are knowingly creating many documents like partition deed, settlement deed, gift deed, release deed etc., Therefore, the Temple Authorities once raised an objection, the person aggrieved may approach the competent Civil Court of Law for the purpose of establishing his title by impleading the Temple Authorities and the HR & CE Department. In the absence of an elaborate adjudication, High Court cannot form an opinion regarding the title and grant the relief, which would cause greater prejudice to either of the parties. Many such temple properties are taken away by creating various documents and the HR & CE Department is in the process of resuming the lands by following the procedures.

5. The very purpose and object of insertion of Section 22 (A) of the



W.P.No.1929 of 2023

Registration Act is to ensure that the properties belonging to the religious institutions are resumed and protected. Since large scale properties have already been illegally dealt with by many greedy persons and some persons are subsequent bona fide purchasers, the actions are to be initiated only through the competent Civil Court of law and by establishing their title and ownership independently based on the documents and evidence available on record.

6.In many cases, the religious institutions including temple, churches and mosques have not initiated appropriate action for the purpose of resumption of the properties and in some occasions, these religious institutions are not even aware of the donations made in favour of the religious institutions. In such circumstances, the authorities are bound to collect evidence and establish the case of the Temple . The Deity in a Temple is a minor and the High Court is exercising the powers of *parans patriac* and thus, the High Court has to go to any extent for the purpose of protecting the interest of the Deity in Temples.

7.In the present case, by citing one or two partition deeds or sale



W.P.No.1929 of 2023

deeds, the petitioner cannot say that they hold title over the property. The High Court cannot decide merely based on such partition deed or sale deed and in the event of any finding in this regard, the same would cause prejudice to the interest of the religious institution.

8.The learned Government Advocate, appearing on behalf of the HR & CE Department, made a submission that the temple has not been impleaded as a party respondent in the present case. However, the HR & CE Department is a party. The Assistant Commissioner of HR & CE Salem has given a written instructions in letter dated 25.01.2023, as per which the the name change has been made by few persons at later point of time and the property originally belonged to the temple. The authorities are in the process of collecting all the evidences and to initiate appropriate action to resume the land by following the procedures as contemplated under law.

9.As far as the registration of a document is concerned, Section 22(A) unambiguously stipulates that in the event of an objection from the religious institution, the registering authority shall refuse to register the documents.



W.P.No.1929 of 2023

10.In the present case, the Assistant Commissioner in his written instructions clearly states that the property is belonging to the temple and they have initiated actions to resume the property. That being the factum, the registering authority has acted in consonance with the Section 22(A) of the Registration Act and there is no infirmity as such in respect of the refusal order passed by the Sub Registrar refusing registration.

11.Accordingly, this Court do not find infirmity in respect of the order passed by the 4th respondent and thus, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

10.07.2023



W.P.No.1929 of 2023

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W.P.No.1929 of 2023

S.M.SUBRAMANIAM. J.,

(sha)

W.P.No.1929 of 2023

10.07.2023