



WEB COPY

W.P.No.20802 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.20802 of 2023

and

W.M.P.No.20181 of 2023

1.Indirani

2.Sumathi

3.Madheswari

4.Shyamala

... Petitioners

Vs.

1.The Commissioner,
Hindu Religious and Charitable Endowments Department,
Chennai – 600 034.

2.The Executive Officer,
Arulmigu Dharmarajar Koil,
Koothapadi,
Pennagaram Taluk,
Dharmapuri District.

3.The Sub Registrar,
Pennagaram Town and Taluk,
Dharmapuri District.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 3rd respondent namely the Sub Registrar of Pennagaram dated 29.10.2018 in reference 4 No.TP/48662925/18 so far as it relates to the sale deed dated 29.10.2018 executed by the petitioners in favour of Madhaiyan, son of Madhaiyan in respect of an extent of 12 cents in S.No.733, Koothapadi Village, Pennagaram Taluk, Dharmapuri District and consequently direct the 3rd respondent namely the Sub Registrar of Pennagaram to receive and register the said sale deed dated 29.10.2018.

For Petitioners	: Mr.N.E.A.Dinesh
For R1 & R2	: Mr.K.Karthikeyan Government Advocate [For H.R.&.C.E]
For R3	: Mr.D.Ravichander Special Government Pleader

ORDER

The order dated 29.10.2018 issued by the Registering Authority / Sub Registrar refused to register the document presented by the writ petitioners is under challenge in the present writ petition.

2. The petitioners state that they are the owners of the subject property described in the present writ petition. They presented sale deed for



registration and the Sub Registrar issued the impugned order stating that there is an objection from the Hindu Religious and Charitable Endowments Department, stating that the subject property belongs to the Temple. Therefore, the Sub Registrar cannot entertain registration under Section 22-A of the Registration Act. Though the order has been passed in the year 2018, the petitioners were not vigilant enough to move the present writ petition and kept the matter for about 5 years and today it is posted for admission.

3. This Court has considered the issue relating to the objections raised by the religious institution under Section 22-A of the Registration act in W.P.No.13718 of 2023 dated 20.06.2023 and the relevant paragraphs are under:

“10. The only questions, which are to be considered is whether the objections raised by the Tamil Nadu Wakf Board is in consonance with the provisions of the Registration Act or not?. Whether the Registering the Authority has notified the submissions under Section 22-A of the Registration Act, in a proper manner or not?

11. Section 22-A of the Registration Act,



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enumerates -Refusal to register certain documents- and Sub Clause (iv) of Sub Section (1) to Section 22-A of the Registration Act, stipulates that ?of Wakf which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995 (Central Act 43 of 1995). Further Section 22-A denotes that ?Notwithstanding anything contained in this Act, the Registering Authority shall refuse to register any of the documents stipulated in Sub Section (1). Therefore, the Registering Authority has no option but to refuse to register the documents, if those documents are falling under anyone of the clauses stipulated in Sub Section (1) to Section 22-A of the Registration Act.

13. The Power of Judicial Review of the High Court under Article 226 of the Constitution cannot be expanded for the purpose of adjudication of the disputes of civil nature. All such disputes are to be resolved based on the documents and evidences available on record and before the Competent Forum. Merely drawing an inference based on the revenue documents, title cannot be settled and in the event of passing any such order, it would cause prejudice on either of the parties.



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17. As far as the powers of the Registering Authority under Section 22-A is concerned, the Registering Authority has acted in consonance with the provisions of the Act and based on the objections raised by the Wakf Board. Once the objections are filed by the Religious Institutions and/or by the Tamil Nadu Wakf Board, the Registering Authority has no objection. Since the language of the word used in the Section 22-A is 'shall', the Registering Authority has no power of adjudication on these disputed issues of civil nature. Therefore, they acted in accordance with Section 22-A of the Act and if the parties are claiming any right, they have to establish their case before the Competent Forum. Thus this Court do not find any infirmity in respect of the stand taken by the Registering Authority based on the objection submitted by the Tamil Nadu Wakf Board. The petitioners are at liberty to approach the appropriate Forum.”

4. In the present case, the Hindu Religious and Charitable Endowments Department raised an objection that not to entertain a registration in respect of the subject properties on the ground that the said property belonging to the



Temple. Therefore, the petitioners have to approach the Competent Civil Court of Law, if at all he is of the opinion that they are the title holders.

However, the Registering Authority cannot adjudicate such disputed issues with reference to the title, ownership or otherwise.

5. With these observations, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

14.07.2023

Jeni
Index : Yes
Speaking order
Neutral Citation : Yes

To

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S.M.SUBRAMANIAM, J.

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