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W.P.No.4012 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.4012 of 2023

and

W.M.P.No. 4061 of 2023

1.R.Govindaraj

2.G.Mohanraj

3.G.Gayathri

...Petitioners

Vs.

1.The District Registrar (Administration)

District Registrar Office,

1 / 529 Neruperichal,

Pooluvapatti (Post),

Tirupur 641 602.

2.The Sub Registrar,

Tiruppur Kangayam Road,

Ponmuthu Nagar,

Nallur 641 606.

3. The Executive Officer,

Arulmighu Vishveshwaraswamy Visalatchi Amman,

and Subramaniaswamy Temple,

Nallur 641 606.

4.Commissioner of H.R.&C.E. Department,

Nungambakkam, Chennai-34.

...Respondents

(R4-suo motu impleaded on 18.08.2023 in W.P.No.4012 of 2023 by SMSJ)



W.P No.4012 of 2021

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling upon the impugned order dated 07.12.2021 culminated in Na.Ka.No. 314 / 2021 on the file of the 2nd respondent and quash the same as illegal, unlawful, arbitrary, unenforceable and not binding on the petitioners and directing the 2nd respondent to register the sale deed to be presented for registration by the petitioners in respect of the property comprised in S.F.No. 291 / 5A admeasuring to an extent of 11009 sq.ft situated at Nallaur Village Tirupur taluk and District.

For Petitioner : Mr.P.R.Krishnaraj

For Respondents : Mr.T.Venkatesh Kumar
Spl.Govt.Pleader [R.1 & 2]
: Mr.R.Rajesh Vivekananthan [R.3]
: Mr.N.R.R.Arun Natarajan,
Special Government Pleader [R.4]
(H.R. & C.E.)

ORDER

The writ on hand has been instituted questioning the validity of the order passed by the Sub Registrar in proceeding dated 07.12.2021.

2.The petitioners state that they are the absolute owners of the subject property morefully described in the affidavit filed in support of the present writ petition. The petitioners presented a sale deed for registration and the document was returned by the second respondent on the ground that the there was an objection from the third respondent temple under Section 22-A of the



W.P No.4012 of 2021

Registration Act. The petitioners are of the opinion that the objections raised by the third respondent temple is untenable since they hold document to establish their title.

3.The wife of the first petitioner / Tmt.G.Bakkiyam earlier filed a writ petition in W.P.No.3753 of 2021 and this Court passed final orders on 06.07.2021, directing the Sub Registrar to pass final orders on merits and in accordance with law.

4.Accordingly, the petitioners have submitted all the relevant documents for verification. The Sub Registrar conducted an inquiry and passed the impugned order in proceeding dated 07.12.2021, stating that there is a title dispute and consequently, relegated the petitioners to approach the competent Civil Court of law. The Sub Registrar has stated that he cannot register the document temporarily in all of the title disputes relating to the temple and the petitioners.

5.The learned Counsel for the petitioners made an attempt to establish that the partition deed of the year 1913 would be sufficient for establishing the title of the petitioners. However, the learned Special Government Pleader appearing on behalf of the H.R. & C.E. drew the attention with reference to



the Inam proceedings dated 23.11.1936 of the Board of Revenue Records wherein the competent authority passed an order stating that the Collector has to initiate necessary steps for resumption of the Inam under paragraph 4 of T.D. No.1304, Revenue dated 16.06.1931, as it is reported that after the death of the Devadasi Marimuthu, no dasi has been rendering service in her place in the temple. Relying on the said proceedings, the learned Special Government Pleader contended that the subject property is an Inam Land and therefore, after the death of the Devadasi Marimuthu, the lands have to be resumed by the Collector.

6.The learned counsel for the petitioner disputed the said contention by stating that the property has been enfranchised and therefore, it was no longer an Inam Land and cannot be resumed. However, the dispute exists regarding the title. Whether the petitioner is entitled to hold the title is to be adjudicated with reference to the documents and evidences available on record. High Court cannot conduct an inquiry into the disputed issues between the parties which all are of civil nature.

7.The power of judicial review under Article 226 of the Constitution of India is to ensure that the process through which a decision has been taken by a competent authorities is in consonance with the statutes and rules in force



but not the decision itself.

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8.As far as the Sub Registrar is concerned, Section 22-A of the Act confers powers to refuse registration. In the event of an objection from the Government or from the religious institutions, the Sub Registrar is empowered to refuse the registration of document. The Sub Registrar is not competent to adjudicate the issues relating to Civil Disputes. Sub Registrar cannot conduct trial so as to determine the rights of the parties. Therefore, in the event of an objection by the Government or the religious institutions, the aggrieved party has to approach the Civil Court of law for the purpose of establishing the Civil rights.

9.The learned counsel for the petitioner made a submission that mere objection by the religious institution would cause prejudice to the interest of the title holders. It is a statutory protection given to the Government properties and Temple properties and it is not as if the persons claiming title is remediless. Even in case of objection, a person claiming title is at liberty to approach the competent Civil Court and established his title. Therefore, statutory protection, provided to the public properties, is to be considered at all circumstances and therefore, objections if submitted by the Government or the religious institutions, the Registering Authority is empowered to refuse



registration and non-registrable document would not dis-entitle a person from establishing his title in respect of the property in the manner known to law.

Such statutory protection is provided to the public properties since there is a systematic and calculative way of grabbing the properties made by many greedy men.

10.Certain properties are dealt in a manner, which would be very difficult for the authorities to trace out the origin. Under those circumstances, the amendment was made so as to ensure that the public properties and the religious properties are protected and therefore, a power has been conferred to the Registering Authority to refuse registration which would not prevent a person from establishing his title in the manner known to law. Thus, the objection if any submitted by the religious institution would not be a complete disownment of title or depriving a person from establishing his title. Contrarily, persons claiming title is at liberty to establish the same in the manner contemplated.

11.In the present case, the Sub Registrar, pursuant to the directions issued by this Court conducted an inquiry and found that there are disputed issues involved with reference to the documents filed by the parties. Thus, the

Sub Registrar relegated the parties to approach the competent Civil Court of



W.P No.4012 of 2023

law. This Court do not find any infirmity in respect of the reasons given by the Sub-Registrar and therefore, the petitioner is at liberty to establish his title before the competent Civil Court of law and thereafter, register the documents if any under the provisions of the Registration Act.

12. In view of the fact that the competent authority is an H.R. & C.E. Department for resumption of temple property, the Commissioner of H.R. & C.E. Department, Nungambakkam, Chennai-34 has been suo moto impleaded as respondent for initiation of further actions in the manner known to law.

13. With these clarifications, the writ petition stands **dismissed**. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

18.08.2023

Index : Yes
Internet: Yes
Speaking Order
Neutral Citation Case: Yes
(Sha)



W.P No.4012 of 2022

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- To**
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1 / 529 Neruperichal
Pooluvapatti (Post)
Tirupur 641 602
 - 2.The Sub Registrar
Tiruppur Kangayam Road
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 3. The Executive Officer
Arulmighu Vishveshwaraswamy Visalatchi Amman
and Subramaniaswamy Temple
Nallur 641 606
 4. H.R. & C.E. Department,
Nungambakkam, Chennai-34



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W.P No.4012 of 2023

S.M.SUBRAMANIAM, J.
sha

W.P No.4012 of 2023
and
W.M.P.No.4061 of 2023

18.08.2023