



WEB COPY

W.P.No.9440 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9440 of 2019 &
W.M.P.No.10022 of 2019

1.K.K.Rajan

2.E.T.Anitha

... Petitioners

Vs.

1.The Inspector General of Registration,
Santhome High Road,
Chennai – 4.

2.The Sub-Registrar,
Triplicane,
Chennai – 5.

3.Arulmighu Thiruvotteeswarar Thirukoil,
Rep. By its Executive Officer,
Chennai

... 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 in rejecting the document in RFL/ Triplicane/ 4/ 2019 dated 20.02.2019 issued by the 2nd respondent and quash the same and further direct the 2nd respondent to register and return the Mortgage Deed dated 20.02.2019 presented by the petitioner.



For Petitioner : Mr.T.N.Rajagopalan

For Respondents 1 & 2 : Mr.G.KrishnaRaja
Additional Government Pleader

For Respondent 3 : Mr.R.Bharanidharan

ORDER

The refusal check slip impugned in the present writ petition is sought to be quashed.

2. The petitioners state that the first petitioner is the husband and the second petitioner is his wife and they are the absolute owners of the land and building bearing New No.25, Old No.11, Thalayari Street, Royapettah. Chennai 600 014 measuring about 1618 sq. ft. comprised in old S.No.899, R.S.No.1244, Triplicane, Mylapore Taluk. The petitioners in their affidavit narrated the details regarding the earlier owners or occupants and the manner through which the title was derived.

3. The petitioners presented a document for Registration. The Registering Authority refused to register on the ground that there is an objection from the Hindu Religious and Charitable Endowment Department on the ground that the subject property is belonging to the Arulmigu



Thiruvotteeswarar Koil / the third respondent.

WEB COPY

4. The learned counsel for the petitioners mainly contended that the earlier writ petition orders passed by this Court would reveal that the petitioners are the owners. W.P.No.7649/2002 was filed and this Court passed an order on 10.12.2010 dismissing the writ petition filed by the Temple, thereby confirming the order of the Land Commissioner. Writ Appeal filed by the Temple in W.A.No.660/2011 is pending. Therefore, as per the said writ petition, the petitioners are the owners and therefore, the document is to be registered.

5. The said writ petition was instituted in respect of the entire locality, questioning the validity of the order dated 19.12.2001 passed by the Land Commissioner under the Provisions of Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. This Court considered the case based on the occupation of the persons in that locality and the superstructures put up by those occupants. Admittedly, the occupants in that locality have put up constructions.



WEB COPY

6. It is the settled law that mere occupation of the premises would not confer title to any person. What was adjudicated in the writ petition was with reference to the orders passed under the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963. This Court considered the long time occupation of the persons in that locality with reference to certain documents and also superstructures put up by them. However, title declaration has not been given by a competent civil court of law so far.

7. The declaration of title in respect of an immovable property is to be made, only after conducting a fulfilled trial in the manner contemplated under the Code of Civil Procedure. The civil court would be competent to declare such title, based on the documents and evidences available and more so, after scrutinizing the original documents by conducting the trial. Therefore, the order of dismissal secured by the petitioners in the proceedings under Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 would not confer title in respect of the property.

8. The scope of adjudication under such special Acts by the High Court in a writ proceedings cannot be construed as a declaration of title and therefore, the petitioners if at all claiming any title, have to approach the



competent civil court of law.

WEB COPY

9. As far as the third respondent temple is concerned, they are also claiming title based on certain documents. The third respondent in their counter affidavit has stated that it is an undisputed fact that the property in question were originally forming part of the large extent of Inam lands belonging to the A/M Thiruvotteeswarar Temple by virtue of two cowls dated 01.11.1734 and 10.08.1787 where grants are in favour of temple known as “Thiruvotteeswarar Shotrium” which is a religious grant in favour of the temple and the occupants of the land could only enjoy the land by paying rent known as “quit rent” and therefore, the claim of the petitioners that they are the absolute owner of the land in question is false.

10. Even in case, certain facts regarding the occupation or documents are considered by the writ court in writ proceedings, the said consideration cannot be construed as a conclusive proof for title in respect of the properties. It is not in dispute that no trial nature proceedings are undertaken in a writ proceeding which is mandatory for the purpose of declaration of title in respect of an immovable property.

11. Therefore, merely based on the observations made in the orders



passed in the writ proceedings under Article 226 of the Constitution of India, no person can claim title over an immovable property and thus, the very contention of the petitioners that they are the owners of the property cannot be taken into consideration, unless such title has been established before the competent civil court of law in the manner contemplated.

12. As far as the present writ petition is concerned, the third respondent temple filed an objection to the second respondent / Sub-Registrar under section 22A of the Registration Act to refuse registration in respect of the temple properties.

13. Consequently the mortgage deed presented by the petitioners was returned based on the objections raised by the third respondent temple.

14. As far as the Registering Authority is concerned, they are bound to act on the objections submitted by the religious institution in view of section 22A of the Registration Act. If the subject property is belonging to or given or endowed for the purpose of any religious institutions, to which Tamil Nadu Hindu Religious and Charitable Endowments Act is applicable, then the Registering Authority is bound to refuse to register, in the event of



objection from such religious institutions or from the department of Hindu Religious and Charitable Endowment.

WEB COPY

15. Therefore, there is no infirmity in respect of the order of refusal which is impugned in the present writ petition. Mere pendency of a writ appeal in respect of proceedings issued under Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 is not a bar for invoking section 22A of the Registration Act by the registering authority .Unless title dispute has been resolved, the parties may not be in a position to deal with the properties.

16. In the present case, the third respondent temple is consistently claiming title throughout and so far persons claiming ownership has not instituted any suit for the purpose of declaration of title. Therefore, the parties who all are proposed to deal with the property or otherwise, have to approach the civil court of law for the purpose of establishing their title in the manner known to law. However, the registering authority has acted in accordance with section 22A of the Registration Act and there is no infirmity as such.

17. High Court is the *Parens Patriae* of the deity in a temple. Even if



there is any misrepresentation or collusion or otherwise by the temple trustees or the authorities, then the High Court is bound to step in and go to any extent to protect the property belonging to the deity. High Court being a guardian, has to act in the interest of the minor and the deity being a minor, the High Court may pass necessary orders in the interest of protecting the property belonging to the temple.

18. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.07.2023

nl

Index : Yes

Speaking order

Neutral Citation : Yes



WEB COPY

W.P.No.9440 of



To

1.The Inspector General of Registration,
Santhome High Road,
Chennai – 4.

2.The Sub-Registrar,
Triplicane,
Chennai – 5.



WEB COPY

W.P.No.9440 of



S.M.SUBRAMANIAM, J.

nl

W.P.No.9440 of 2019

21.07.2023