



WEB COPY



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P Nos.12553 & 12557 of 2023

K.Suresh Kumar

Petitioner
in both W.Ps

VS.

1.The Sub – Registrar,
Thousand Lights.

2.The Executive Officer,
Arulmigu Agatheswarar Prasana Venkatesa Perumal Thirukoil,
No.11, North Mada Street, Nungambakkam – 34.

3.The Commissioner,
Hindu Religious Charitable Endowments Department,
119, Uthamar Gandhi Salai, Nungambakkam,
Chennai – 600 034.

Respondents
in both W.Ps

Prayer in W.P.No.12553 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd Respondent in impugned communication dated 15.12.2020 bearing Subject “திருக்கோயிலுக்குச் சொந்தமான சொத்துக்கள் பத்திரப்பதிவு செய்தல் ஆட்சேபனை தெரிவித்தல் தொடர்பாக” issued by the 2nd respondent to the 1st respondent and the quash the same and direct the 1st Respondent to receive and register any document for the property situated at Survey No.452 bearing address Flat No. S2 and S3 IInd Floor No.2 and 3 South Mada Street, Nungambakkam, Chennai- 600 034.



Prayer in W.P.No.12557 of 2023: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 3rd Respondent in Impugned order bearing No.O.M.No.59256/2022/R.2/dated 03.02.2023 and the quash the same and direct the 1st Respondent to receive and register any document for the property situated at Survey No.452 bearing address Flat No.S2 and S3 IInd Floor no.2 and 3 South Mada Street, Nungambakkam, Chennai- 600 034.

For Petitioner : Mr.P.J.Rishikesh
in both Writ Petitions

For Respondents : Mr.C.Selvaraj
in both Writ Petitions Additional Government Pleader
for R1

Mr.N.R.R.Arun Natarajan
Special Government Pleader
for R2 and R3

ORDER

The issue involved in both these writ petitions are common and hence, they are taken up together, heard and disposed of through this common order.

2.W.P.No.12553 of 2023 has been filed challenging the impugned letter dated 15.12.2020 issued by the Executive Officer of Arulmighu Agatheeswar Prasanna Venkatesa Perumal Thirukoil to the Sub Registrar informing the Sub Registrar not to



said letter.

WEB COPY

3.W.P.No.12557 of 2023 has been filed challenging the rejection order passed by the Commissioner of HR & CE through proceedings dated 03.02.2023, wherein, the petitioner had sought for the No Objection Certificate to register a document pertaining to the property situated at S.No.452 bearing Flat No.S2 and S3, IIInd Floor, South Mada Street, Nungambakkam.

4.Heard Mr.P.J.Rishikesh, learned counsel appearing on behalf of the petitioner, Mr.C.Selvaraj, learned Additional Government Pleader appearing on behalf of the 1st respondent and Mr.N.R.R.Arun Natarajan, learned Special Government Pleader appearing on behalf of the 2nd and 3rd respondents.

5.The case of the petitioner is that the title to the subject property is traceable to the Sale Deed dated 1929 and this property does not belong to the 2nd respondent Temple. In spite of the same, the 2nd respondent represented by the Executive Officer has given a blanket letter dated 15.12.2020 covering various properties and has virtually stopped the 1st respondent from registering any document pertaining to these properties. One such property that has been mentioned in the impugned letter dated 15.12.2020 covers S.No.452 where the flats that are sought to be settled by the petitioner is also situated. Aggrieved by the same, the letter that was given by the



Temple to the Sub Registrar has been put to challenge. Since, the Sub Registrar Office was insisting for a No Objection Certificate in order to register the document, an application was made and the Commissioner through the impugned proceedings dated 03.02.2023 refused to grant No Objection Certificate. This refusal order has been separately challenged in W.P.No.12557 of 2023.

6.The main crux of the grievance expressed by the petitioner is that the Flats are sought to be settled by the petitioner in favour of his wife. When the petitioner approached the Sub Registrar, the Sub Registrar refused to even entertain the documents and only at that point of time and the petitioner came to know about the letter that was given by the 2nd respondent Temple. When the petitioner further enquired the reason as to why such a letter was given by the 2nd respondent Temple, the petitioner came to know about a Public Interest Litigation that was filed by one Mohanraj in W.P.No.9336 of 2018, wherein, he had complained that the properties belonging to the temple are being illegally sold. In that writ petition, the Division Bench of this Court had issued directions to the HR & CE Department to deal with the representation made by the petitioner therein and to issue a positive direction within a stipulated time. This order passed by the Division Bench had resulted in the 2nd respondent temple hastily issuing a letter to the Sub Registrar. Hence, according to the petitioner, the 2nd respondent even without properly verifying the title to the property has included S.No.452 also as one of the property in the list and thereby, all



those flats/properties falling under this survey number are not able to be dealt with by the respective owners. Hence, the letter issued by the 2nd respondent Temple has been questioned for non-application of mind and that the same has been issued in a hasty manner without proper verification.

7.The Division Bench of this Court in ***Sudha Ravi Kumar & Another Versus The Special Commissioner and Commissioner, Chennai & Others*** reported in **2017 3 CTC 135** has given a solution for a dispute of this nature. For proper appreciation, Paragraph No.25 of the judgment is extracted hereunder:

25. 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 availing the opportunity for filing a statutory appeal.

(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.

(vi) Consequently the connected miscellaneous petitions are closed. No costs.

8. In a case, where the owner of the property seeks to register the document and

the document is not entertained by the Sub Registrar based on any letter issued by

<https://www.mhc.tn.gov.in/judis>

the Temple, this Court has evolved a mechanism as to how it can be resolved by the



Sub Registrar. The opportunity is given to both the owner of the property as well as to the concerned temple to put forth their claim before the Sub Registrar. Ultimately, the Sub Registrar can take a decision with regard to the registration of the document or otherwise. Depending upon the decision taken by the Sub Registrar, it will always be left open to the parties to workout their remedy before the appropriate forum. Instead of keeping these writ petitions pending before this Court, it will be fit and proper if the petitioner is permitted to workout his remedy in line with the mechanism that has already been evolved by the Division Bench of this Court.

9. In the light of the above discussion, both the writ petitions are disposed of with a direction to the petitioner to present the document before the 1st respondent and the 1st respondent shall deal with the document in the light of the directions issued by the Division Bench by putting the 2nd respondent Temple on notice. A final decision shall be taken by the 1st respondent, within a period of six weeks from the date of receipt of copy of this order. Depending upon the final decision taken by the 1st respondent, it is left open to the parties to workout their remedy in the manner known to law. It goes without saying that the 1st respondent will not mechanically act upon the letter given by the 2nd respondent Temple dated 15.12.2020 and the 1st respondent will strictly go by the directions issued by the Division Bench in this regard and take a decision.



N. ANAND VENKATESH, J.

SSR

10. In the result, both the writ petitions are disposed of with the above directions. No Costs.

24.04.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
SSR

(2/2)

To

1. The Sub – Registrar,
Thousand Lights.
2. The Executive Officer,
Arulmigu Agatheswarar Prasana Venkatesa Perumal Thirukoil,
No.11, North Mada Street, Nungambakkam – 34.
3. The Commissioner,
Hindu Religious Charitable Endowments Department,
119, Uthamar Gandhi Salai, Nungambakkam,
Chennai – 600 034.

W.P Nos.12553 & 12557 of 2023

(2/2)