



WEB COPY



W.P.No.28420 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.11.2023

CORAM :

**THE HONOURABLE MR. JUSTICE P.VELMURUGAN**

W.P.No.28420 of 2023

and

WMP.No.27967 of 2023

S.Chitra Srinivasan

... Petitioner

Versus

1.The Executive Officer,  
Arulmigu Kodhanda Ramar Swamy Thirukovil,  
Nandambakkam,  
HR & CE Department,  
Chennai 600 089.

2.The District Registrar,  
District Registrar (Administrative) Office,  
South Chennai,  
Combined Commercial Tax and Registration  
Department Office (Ground Floor),  
Nandhanam, Chennai 600 035.

3.Sub-Registrar,  
Registration Department,  
Sub-registrar Office,  
15/17, Military Quarters,  
Alandur, Chennai – 600 016.

Respondents

...

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of



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India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order bearing Ref.No.P16/2022, dated 27.12.2022 issued by the 3<sup>rd</sup> respondent refusing registration insofar as it relates to the petitioner's property situated in Old Survey No.40/1-part, New Survey No.206/8, No.5, Ramar kovil street, Nandampakkam Village, Alandur vattam, Kancheepuram District and quash the same as being illegal arbitrary and unconstitutional and consequently direct the 2<sup>nd</sup> respondent to effect registration of the petitioner's property in accordance with law and for such other orders or directions.

For Petitioner : M/s. C.K. Chandrasekkar  
For Respondents : Mr. P. Gurunathan, AGP, (for R2 & R3)  
Additional Government Pleader.  
: Mr. C. Jayaprakash, GA (HR&CE) for R1

### **ORDER**

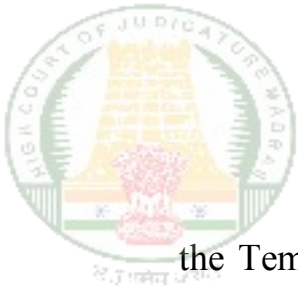
This Writ Petition has been filed challenging the order of the third respondent bearing Ref.No.P16/2022, dated 27.12.2022, refusing to register the petitioner's property situated in Old Survey No.40/1-part, New Survey No.206/8, No.5, at Ramar Kovil Street, Nandampakkam Village, Alandur Vattam, Kancheepuram District and consequently to direct the second respondent to effect registration of the said property.



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2. The petitioner presented the document for registration before the third respondent, who directed the petitioner to obtain a “No Objection Certificate” from the Tamil Nadu Hindu Religious and Charitable Endowments Department (TN H.R.& C.E). Since the Temple has raised certain objections with respect to the land documents submitted for registration by the petitioner, which is situated in Old Survey No.40/1-part, and though the petitioner has made several representations and approached the third respondent, neither they have registered the document, nor they issued “No Objection Certificate” to her. Therefore, the petitioner has approached this Court by way of this Writ Petition.

3. Even though this Court had given several opportunities, the respondents are not in a position to state that the subject property is a Temple property or not. Since the Temple has fallen under the control of the first respondent/Executive Officer as per the Tamil Nadu Hindu Religious and Charitable Endowments Act, it is the duty of the Temple authorities to maintain proper registers and if the Temple produces proper registers in respect of the subject property, then only it can be substantiated as to whether the subject property is a Temple property or not. Though the third respondent has stated that the larger extent of land in Old Survey No.40/1 is in occupation of



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the Temple, except 30 cents, larger extent of lands are under the control and possession of the Temple. Only 30 cents of land have been occupied by the third persons, for which, the Temple has also been collecting the rent from them.

4. Admittedly, the land in dispute was originally classified as “Naththam Poramboke”. The “Naththam” is not a property of the Government and the Government has no exclusive right to claim over the “Naththam” property. The “Naththam” property is only meant for the house sites and a person who can occupy and enjoy the land for the purpose of constructing houses and to get Patta, and a building can also be construct in the land and they may not have to ask separate conveyance deed from them for enjoying the “Naththam” land. Therefore, when once the petitioner claimed that the occupied land is a “Naththam” promboke, and subsequently the occupier's possession was also recognized by the Government, and Patta was also issued and the persons who are enjoying the land fully recognized by the Government, can sell the property and if so, when once the documents are presented for registration, the Registering Authority may not insist the person for production of conveyance deed, since it is in occupation of occupiers who are all recognized by the Government by way of issuing Patta.



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5. Now, the question is as to whether the petitioner's land is a Temple land and as to whether the Temple had objected for registering the document as if the land is a Temple land. The Registering Authority directed the petitioner to obtain the “No objection certificate” from the Tamil Nadu Hindu Religious and Charitable Endowments Department. As far as this issue is concerned, the Temple is claiming that the land does not belong to the Temple or the Temple is claiming right over the property in question.

6. Though the third respondent filed a counter affidavit, they may have not specifically stated in the counter as to whether the property in question belongs to the Temple or not. No documents were produced with respect to the said land pertaining to the register of the Temple property being maintained by the Tamil Nadu Hindu Religious and Charitable Endowments Department and even no original records were produced with respect to the said S.No.40/1 and the new S.No.206/8 stated to be the Temple property, or not so.

7. Even the documents produced by the first respondent also, do not shows that the Old Survey No.40/1 and New Survey No.206/8 belonged to the Temple. Therefore, under such circumstances, the first respondent is directed



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to issue notice to the petitioner, conduct enquiry and pass appropriate orders, within a period of one month, from the date of receipt of a copy of this order, and thereafter, if the petitioner is otherwise eligible for it. The Hindu Religious and Charitable Endowments Department shall issue the “No Objection Certificate” to her for registering the above said document.

8. With the above directions, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is also closed.

9. Before parting with this case, it is to be noted that since the respondents have not properly respondend to this Court and they are not even able to produce the original documents or records, this Court is of the view that the Temple Authority concerned had not followed the provisions of the Tamil Nadu Hindu Religious and Charitable Endowments Act, for maintaining the register of the Temple property and for safeguarding the property of the Temple. Therefore, it is appropriate now to give direction to the Director of Central Bureau of Investigation, Chennai to register a case and conduct an enquiry about the properties that belong to the Temple and also who are all the erring officials with regard to the maintenance of the Temple properties, and if



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there is any alienation by the Trustees or Officials with regard to the Temple property, and if anybody was allowed by any Officials or Trustees in their knowledge, or the Temple authorities allowed any third parties encroached the property or not, they prevented anybody for not taking any action to remove the encroachments, and for not conducting the enquiry and to file a report. All these things shall be investigated and a report be filed by the Central Bureau of Investigation, within a period of six months from the date of receipt of a copy of this order.

10. Registry is directed to forward a copy of this order to the Director of Central Bureau of Investigation, Chennai and list the matter after receipt of the report from the Central Beauré of Investigation “**for reporting compliance**”.

**28.11.2023**

Index : Yes/No

Speaking order: Yes/No

Neutral Case Citation: Yes/No

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- 2.The District Registrar,  
District Registrar (Administrative) Office,  
South Chennai, Combined Commercial Tax and Registration  
Department Office (Ground Floor),  
Nandhanam, Chennai 600 035.
- 3.Sub-Registrar,  
Registration Department,  
Sub-registrar Office, 15/17, Military Quarters,  
Alandur, Chennai – 600 016.
- 4.The Central Bureau of Investigation,  
Economic Offences Wing,  
Rajaji Bhavan Complex,  
Tiruvalluvar Nagar, Besant Nagar, Chennai – 600 090.





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**P. VELMURUGAN, J.**

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