



W.P(MD)No.249 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.249 of 2023

KR.Meenakshi Sundram

... Petitioner

Vs.

1.The District Registrar,
Madurai South,
Madurai District.

2.The Sub Registrar,
Tiruparakundram,
Madurai.

3.The Joint Commissioner (HR & CE)
Madurai.
(R3 is suo motu impleaded vide Court dated
24.01.2023)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the first respondent to fix the guideline value of the property situated in S.No.32/2 in Tiruparankundram, Madurai District and consequently, direct the second respondent to provide the registration number for the pending Document No.P135/2010, dated 06.08.2010 within a time stipulated by this Court.



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For Petitioner : Mr.T.Mohan
Senior Counsel
for RM.Arun Swaminathan

For Respondents : Mr.R.Baskaran
Additional Advocate General
assisted by
Mr.S.Shanmugavel
Additional Government Pleader for R3

: Mr.P.Subbaraj
Special Government Pleader for R1 & R2

ORDER

Heard the learned Senior Counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for R1 & R2 and the learned Additional Advocate General assisted by Additional Government Pleader for the impleaded HR & CE Department.

2. The petitioner herein purchased the petition mentioned property vide sale deed dated 06.08.20210 and presented the same for registration before the second respondent. It was kept as a pending document for very long time and appears to have been returned to the petitioner recently. The primary ground, on which, the second respondent had declined to register the document is that in the guideline register, zero value has been ascribed to the petition mentioned survey number. The registration department is under impression that the property in question is a temple land.



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3. My attention is drawn to the Judgment and Decree dated 09.03.1977 made in S.A.No.1783 of 1974. The suit was instituted by the petitioner's predecessor-in-title. Having lost in both the courts below, the second appeal was filed before the High Court. The suit was for declaration of title and for permanent injunction restraining the State from interfering with his possession and enjoyment of the suit property. The second appeal was allowed and the appellant's claim of title to the suit property was declared. Permanent injunction was also granted. An observation was made that it was open to the Hindu Religious and Charitable Endowment Department to take such steps as they may be advised if it is their contention that the property has since become a public temple. Since the petitioner's vendors faced interference at the hands of the HR & CE Department, they instituted O.S.No.919 of 2012 and O.S.No. 1212 of 2012 before the Sub Court, Thirumangalam. The suits were tried together. By Judgment and decree dated 22.02.2017, both the suits were decreed in favour of the plaintiffs. It was specifically declared that the temple in question is not a public temple and that it is not amenable to the jurisdiction of HR & CE Department. However, an observation was made in Paragraph No. 27 which gave leverage to the HR & CE Department. Seeking deletion of the said observation, the plaintiffs filed I.A.No.233 of 2017 in O.S.No.919 of 2012.



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The said IA was dismissed on 17.11.2017. Aggrieved by the same, the plaintiffs filed C.R.P.No.1285 of 2021. Vide order dated 28.01.2022, the order of the trial Court was set aside and the Civil Revision Petition was allowed in the following terms:-

“5. Admittedly, the civil Court declared the Temple, as a private temple, belonging to the plaintiff's family, the HR & CE, no locus standi to take action against the plaintiff's temple. For this reason, this Court is inclined to set aside the order passed by the Court below.

6. In the result, the Civil Revision Petition is allowed by setting aside the order, dated 17.11.2017 in I.A.No.233 of 2017 in O.S.No.919 of 2012 passed by the learned Sub Judge, Thirumanglam and the particular observation in the Judgment made in O.S.Nos.919 and 212 of 2012 is hereby removed. No costs.”

Thus, the plaintiff's predecessors-in-title had secured two fold declarations.

- (i) The temple in question is a private temple.
- (ii) The property is their absolute property.

4. The State of Tamil Nadu as well as HR & CE Department are parties to the said decrees. In these circumstances, the registration department cannot take a stand that they would not register the petition mentioned sale deed. The petitioner is permitted to re-present the document in question. The second respondent shall register it and release it subject to fulfilment of usual formalities. If any correction or revision has to be made in the guideline register, it is for the registration department to do so. The entire exercise shall



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be completed within a period of ten weeks from the date of presentation of the petition mentioned sale deed.

5. The Writ Petition is allowed. No costs.

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Index : Yes / No
Internet : Yes/ No
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To

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