



WA(MD)No.985 of 2012

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2023

CORAM

The Honourable Mr. Justice **R.SURESH KUMAR**
and
The Honourable Mr. Justice **K.K.RAMAKRISHNAN**

WA .(MD)No.985 of 2012
and M.P.No.1 of 2012

Arulmigu Sankaranarayanawamy
Thirukovil, Sankarankovil, Through its
Deputy Commissioner/Executive Officer
Sankarankovil,
Tirunelveli District

.. Appellant

Vs.

- 1.R.Sankaranarayanan
- 2.The Inspector General of Registration
Santhome High Road
Mylapore, Chennai 600 028.
- 3.The District Registrar
Office of the District Registrar
Thenkasi
Tirunelveli District
- 4.The Sub Registrar
Office of Sub-Registration,
Sankarankovil
Tirunelveli District

.. Respondents



WA(MD)No.985 of 2012

Appeal is filed under Clause 15 of Letters Patent Act against the order dated 28.08.2012 passed by this Court in WP(MD) No.13702 of 2011.

For Appellants : Mr.M.P.Senthil
For Respondents : Mr.F.Deepak for R1
Mr.M.Prakash for R2 to R4
Additional Government
Pleader

JUDGMENT

[Judgment of the Court was delivered by **R.SURESH KUMAR, J.**]

This intra court appeal has been directed against the order passed by the learned Judge dated 28.08.2012 made in WP(MD) No.13702/2011.

2. The first respondent, who was the writ petitioner, had moved a writ petition seeking to quash the order passed by the Sub Registrar, Sankarankoil, who is the 4th respondent herein and also to consequently issue a direction to register the document, ie. the sale deed in respect of the land in S.No.557/11,16,17,18 and 40 covered by patta No.2144, 2177 and 2099 to an extent of 4.19 acres as well as in respect of the land in S.No. 614/2C to an extent of 2.27 acres covered under patta No.2118 at



WA(MD)No.985 of 2012

Kalappakulam village, Sankarankoil Taluk and Tirunelveli District.

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3. The said writ petition, which was heard by the learned Judge, was allowed by order dated 28.08.2012, which is impugned herein. Aggrieved over the same, the temple has preferred the intra-court appeal.

4. Heard the learned counsel for the appellant temple, the learned counsel for the first respondent/writ petitioner as well as the learned Additional Government Pleader for the other respondents 2 to 4.

5. In fact the case that was projected before the learned Judge by the writ petitioner was that the document, ie., sale deed which was presented by the writ petitioner for registration before the Sub Registrar office was refused on the ground that there has been an objection from the temple authorities and the HR&CE department.

6. It was the further case projected before the learned Judge that under Section 22(A) of the Registration Act, 1908 (in short 'Registration Act'), the registering authority could be empowered to have limited enquiry



WA(MD)No.985 of 2012

and with regard to the roving enquiry to find out the title over the property, such registering authority since does not have any such power, the mere objection, if any received by the temple authorities or HR&CE department, objecting any registration of the document submitted by the owner of the property, as he claimed the ownership by way of issuance of patta in his favour and therefore, on that ground the refusal order made by the Sub Registrar concerned, which was impugned before the writ Court, according to the learned Judge, was infirm and cannot be sustained. Therefore, on that ground the learned Judge allowed the writ petition by giving direction to the registering authority to register the same, after having a preliminary enquiry with regard to the other aspects of the document in question.

7. However, on perusal of the documents projected before this writ appeal, it remains that the order dated 03.11.2011, which was impugned before the writ Court suggests that there has been an order passed by this Court in an earlier writ petition under which prohibitory order of injunction has been issued on permanent basis not to make any registration of lands at various survey numbers namely 557 and 114 at Kalappakulam village Sankarankoil Taluk, Tirunelveli District, in this context, it is to be noted that



WA(MD)No.985 of 2012

on 26.09.2008, the very same temple filed writ petition seeking prohibitory order, ie., forbearing the registering authority from registering any document in respect of the lands in old S.No.428/A1 etc and corresponding new survey numbers for a total extent of 460.96 acres of land at Kalappakulam Village, Sankarankoil Taluk and Tirunelveli District by virtue of G.O. (Ms).No.150 dated 22.09.2000.

8.The said writ petition was allowed by the learned Judge by order dated 26.09.2008, wherein, in the operative portion, the learned Judge has given the following direction:

“15.Though it is stated that the prayer of the writ petitioner temple was based upon G.O.Ms.No.150 (Commercial Taxes Department) dated 22.09.2000, this Court can mould the relief under Article 226 of the Constitution. Under these circumstances and in the light of the earlier decision in Srirangam Temple case (cited supra), the writ petition will stand allowed. The first and second respondents are injunctioned for registering any document relating to the properties of the petitioner temple set out in the annexure to the affidavit. However, there will be no order as to costs. consequently Miscellaneous Petition is closed.”



WA(MD)No.985 of 2012

WEB COPY

9. Subsequently a batch of writ petitions were filed by various individuals seeking writ of mandamus directing the registering authority to receive the respective documents filed before such registering authority for registration, of course, in respect of various survey numbers in the very same village.

10. A common order has been passed by the very same learned Judge on 19.12.2011 in those writ petitions, ie., W.P.(MD) No.11706/2006 etc. batch. Those writ petitions, in fact, were dismissed by the learned Judge.

11. We also come to the notice that both the orders passed by the writ Court ie., the order passed in W.P.(MD) No.9895/2005 dated 26.09.2008 as well as the common order passed in a batch of writ petitions in WP(MD) No.11706/2006 etc. batch vide order dated 19.12.2011 have become final.

12. Therefore, this aspect has been taken into account by the registering authority, who passed an order dated 03.11.2011, which was impugned before the writ Court stating that by virtue of the order passed by



WA(MD)No.985 of 2012

the High Court, the registering authority has been injuncted from registering any document pertaining to various survey numbers at Kalappakulam village, Sankarankoil Taluk and Tirunelveli District.

13. These factors had not been brought to the notice of the learned Judge, who passed the order impugned dated 28.08.2012. Had it been brought to the notice of the learned Judge, certainly, he would have considered those aspects and he would not have allowed the writ petition. A case was simply projected as simple as it is only a Certiorari to set aside the order refusing to register the document on the ground that a mere objection has come from the HR&CE department or temple authorities.

14. But the fact remains that the very registering authority has been injuncted permanently by order of this court which has become final. Further the prayer made by the individuals like the present first respondent, who was the writ petitioner also had been negated by the impugned order passed by the learned Judge referred to above and these orders, since have not been brought to the notice of the learned Judge, who passed the impugned order, the said writ petition was allowed.



WA(MD)No.985 of 2012

WEB COPY

15. On coming to know of these factors, we are of the firm view that the order might have been passed on erroneous assumption that there has been no impediment for the registering authority to register the document, especially in the context of limited enquiry contemplated under Section 22(A) of the Registration Act. However, the registering authority itself has been enjoined by the orders of this Court that has become final and therefore, the order impugned passed by the learned Judge is liable to be interfered with.

16. In the result, the impugned order passed by the learned Judge dated 28.08.2012 is hereby set aside and the writ appeal is allowed accordingly. However, there is no order as to costs. consequently connected Miscellaneous Petition is closed.

(R.S.K.,J.) (K.K.R.K.,J.)
08.06.2023

Index : Yes/No
Internet : Yes
RR



WA(MD)No.985 of 2012

To

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Santhome High Road
Mylapore, Chennai 600 028.

2. The District Registrar
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Tirunelveli District

3. The Sub Registrar
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WA(MD)No.985 of 2012

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