



W.P.(MD) No.848 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.848 of 2020

S.Selvakumar

Vs

... Petitioner

1.The Assistant Commissioner,
HR&CE Department,
Virudhunagar.

(R1 cause title amended vide Court order dated
15.03.2023 in W.M.P(MD) No.10952 of 2021)

2.The Sub Registrar,
Veerasolan,
Veersolan Registrar Office,
Virudhunagar District.

3.S.Selvarani
Managing Trustee,
Arulmigu Muruga Ayyanar Temple,
Veerakudi, Thiruchili Taluk,
Virudhunagar District.

... Respondents

(R3 is impleaded vide Court order dated
23.09.2020 in W.M.P(MD) No.1369 of 2020 in
W.P(MD)No.848 of 2020)



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Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the second respondent dated 04.12.2019 and quash the same as illegal and consequently, direct the second respondent to register the documents in Thiruchuli Taluk, Virudhunagar District as per the provisions contemplated under the Registration Act, 1908.

For Petitioner	: Mr.G.Anto Prince
For R1	: Mr.R.Baskaran Additional Advocate General Assisted by Mr.P.Subbaraj Special Government Pleader
For R2	: Mr.M.prakash Additional Government Pleader
For R3	: Mr.S.Madhavan for Mr.M.Karthikeya Venkitachalapathy

ORDER

This writ petition has been filed for issuance of Writ of Certiorarified Mandamus, to call for records pertaining to the impugned



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order passed by the second respondent dated 04.12.2019 and quash the same as illegal and consequently, direct the second respondent to register the documents in Thiruchuli Taluk, Virudhunagar District as per the provisions contemplated under the Registration Act, 1908.

2. It is the case of the petitioner that the petitioner and his family members had entered into a partition and when the document was presented for registration before the second respondent, the second respondent through his written communication dated 04.12.2019, had refused to register the same on the ground that the property belongs to the third respondent temple. The petitioner would submit that they have the title and interest to the property and the same has been confirmed in earlier suit in O.S.Nos.46 of 1855 before the Mufti Sadder Amin Court and later, in a suit in O.S.No.19 of 1924 on the file of the District Munif Court, Madurai, which was later transferred to the Principal Subordinate Judge, Madurai and renumbered as O.S.No.21 of 1926. The same was dismissed and an appeal in A.S.No.267 of 1928 was filed and the same was also dismissed. Thereafter, the revenue had granted patta in favour



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of the petitioner's grandfather Kuppusamy Devar.

3. It is also the case of the petitioner that after the demise of his grandfather Kuppasamy Thevar, the petitioner's father, namely Subramaniam and his brothers had entered into a partition under a deed dated 14.03.1969. Ever since the date of the partition, he and his family members have been in possession of the property. The petitioner's father had obtained a loan by executing a deed in favour of Government on 05.09.1975 and the Government has granted loan after scrutinising the documents. While so, the petitioner and others decided to effect partition by way of deed dated 04.12.2019. When the documents were presented for registration, it was returned stating that the lands belonged to the third respondent temple. No documents have been produced for scrutiny of the petitioner, despite several reminders. Hence, the present writ petition.

4. Heard the learned counsel appearing on either side.



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5. During the course of the enquiry, the learned counsel appearing for the petitioner had submitted that several transactions had taken place and all of these had been permitted to be registered. It is only this partition deed which is now being questioned and registration denied. Therefore, this Court had directed the petitioner to provide proof that the properties in the survey numbers have been sold and the third respondent temple had remained quiet during the registration of the same.

6. The learned counsel for the petitioner had produced the encumbrance today, containing several transactions which would show that several transactions had taken place in respect of the said survey numbers.

7. In the light of the fact that the third respondent temple has permitted the portions of the property to be dealt with, this Court therefore has to necessarily allow the writ petition and set aside the impugned order. Accordingly, the order passed by the second respondent dated 04.12.2019 is quashed and the Writ Petition is allowed with a



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direction to the second respondent to register the documents if it is otherwise in order. It is needless to state that this registration would be subject to the result of the temple having its right or title established in the manner known to law. No costs.

26.04.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
cp

To

- 1.The Assistant Commissioner,
HR&CE Department,
Virudhunagar.
- 2.The Sub Registrar,
Veerasolan,
Veersolan Registrar Office,
Virudhunagar District.



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P.T.ASHA, J.

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