



W.P. (MD) No. 671 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKEAVALU

W.P. (MD) No. 671 of 2023

Sankarakuthalam

... Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
No. 14/1, Thiruvendram Road,
Palayamkottai, Tirunelveli District.

2.The Assistant Commissioner,
Thirukutralanathar Swamy Thirukovil,
Courtallam, Tenkasi Taluk & District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Mandamus, directing the 2nd respondents to conduct an enquiry on the representation dated 01.10.2022 with regard to the claim of the petitioner over the properties in S.Nos. 174, 177/33, 177/35, 183/1A situated at Pattapathu Village, Tenkasi District within a time frame as may be fixed by this Court.



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For Petitioner : Mr. D.Venkatesh
For Respondents : Mr. P.Subbaraj,
Special Government Pleader

ORDER

Heard Mr. D.Venkatesh, Learned Counsel for the Petitioner and Mr. P.Subbaraj, Learned Special Government Pleader, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner claims that his father, viz., Rethinasabapathi, had acquired rights in respect of the properties at S. Nos. 174, 177/33, 177/35 and 183/1A in Pattapathu Village, Tenkasi District through a registered partition-deed dated 28.10.1940 and on his death on 26.11.2015, he succeeded to his estate as his legal heir and when he presented the release-deed executed in his favour before the Joint Sub Registrar-II, Tenkasi, it was refused to be registered under Section 22-A of the Registration Act, 1908, citing that the property belongs to the Temple of the Second



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Respondent. In that backdrop, he has made a representation dated 01.10.2022 to the Respondent seeking 'No Objection' certificate for registration of the said land in the name of the Petitioner and as no action has been taken thereon, he has filed this Writ Petition.

3. At this juncture, reference must be made to the manner in which a claim made by religious institutions under Section 22-A of the Registration Act, 1908 (as amended in the State of Tamil Nadu) has to be dealt by the Registering Authority as held by the Division Bench of this Court in ***Sudha Ravi Kumar -vs- Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department, Chennai*** [(2017) 3 CTC 135]. If the said procedure has not been followed, it is for the aggrieved party to work out his remedy in that regard before the proper forum in the manner recognized by law, but it is not possible to entertain any Writ Petition seeking to direct the Hindu Religious and Charitable Endowments Department to grant 'No Objection' certificate as sought by the Petitioner in this case. In view of the aforesaid legal position, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to resort to the aforesaid procedure and he has also made an



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endorsement to that effect in the court record. It is needless to clarify that no view has been expressed on the merits of the controversy involved in the matter.

4. In fine, the Writ Petition is dismissed as withdrawn granting such liberty. No costs.

11.01.2023

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NCC : Yes/No

Index : Yes/No

Note: Issue order copy by 27.01.2023.

To

1.The Joint Commissioner,
Hindu Religious & Charitable Endowments Department,
No. 14/1, Thiruvendram Road,
Palayamkottai, Tirunelveli District.

2.The Assistant Commissioner,
Thirukutralanathar Swamy Thirukovil,
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Copy to

The Joint Sub Registrar – II,
Tenkasi.



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P.D.AUDIKESAVALU,J.

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