



W.P(MD)No.1849 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1849 of 2023

1.Z.Mihraj
2.Z.Suraiyal Beevi
3.Lylath Begum
4.Z.Mahabooba
5.Z.Hamarulhithaya
6.Z.Inul Azar
7.Z.Sahul Hameed
8.M.Zakkir Ahamed
9.M.Mohamed Yoonus

... Petitioners

Vs

1.The District Registrar,
Tenkasi District,
Tenkasi.

2.The Sub Registrar,
Sankarankovil,
Tenkasi District.

3.Arulmigu Sankarankovil,
Represented by its Assistant Commissioner /
Executive Officer,
Sankarankovil,
Tenkasi District.

... Respondents



W.P(MD)No.1849 of 2023

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent to register the document presented by the petitioners *qua* the property situated in S.Nos. 396/1, 397/2A1, 2A2, 2A3, 2B, 398/1A1, 1A2, 1A3, 1B, 1C1, 1C3, 1C4, 2A1, 2A2, 2A3, 2B, 2C, 3A, 3C, 3D, 6A1, 6A2, 6A3, 6B, 7A1, 7A2, 7A3, 7B, 7C1, 7C3, 7C4, 719/2, 720/2B Kalapakakulam Village, Sankarankovil Taluk, Old Tirunelveli District now Tenkasi District within the time that may be stipulated by this Court.

For Petitioners : Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For Respondents : Mr.N.Satheeskumar
Additional Government Pleader
for R.1 & R.2

Mr.V.R.Shanmuganathan for R.3

ORDER

Heard the learned counsel appearing for the writ petitioners, the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent.

2.The writ petitioners presented the petition mentioned release deed before the second respondent. The second respondent wanted to know if the third respondent has any objection for registering the document. The third



W.P(MD)No.1849 of 2023

respondent did not respond. Since the issue is hanging fire, the present writ petition came to be filed.

3. When similar issue arose, the Hon'ble Division Bench in the decision reported in **2017 (3) CTC 135 (Sudha Ravi Kumar & Others Vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department and Others)** issued the following directions:

“26. In view of the above discussions, all the writ petitions are allowed and the impugned orders are set aside with the following directions:

"(i) The registering authority before whom the document has been presented shall cause service of notice on the parties to the deeds and also to the objector/religious institution, hold summary enquiry, hear the parties and then either register or refuse to register the document by passing an order having regard to the relevant facts as indicated above.

(ii) If the registering authority, refuses to register any document by accepting the objections raised under Section 22-A of the Registration Act, the aggrieved may file a statutory appeal under the Act.



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(iii) *If the objections raised under Section 22-A of the Act by the religious institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a writ petition seeking cancellation of the registration or for any other relief or to approach the civil Court for declaration of the title and for other consequential reliefs.*

(iv) *If the registering authority refuses to register the document acting on the objections raised by a religious institution under Section 22-A of the Registration Act, the parties to the deed will be at liberty to straightaway approach the Civil Court for declaration of title and other relief without availing the opportunity for filing a statutory appeal.*

(v) *We further direct that if the deed has already been registered without there being any objection by the religious institution under Section 22-A of the Act, the document shall be returned to the parties concerned leaving it open for the religious institution to approach either the High Court under Article 226 of the Constitution of India or the Civil Court for appropriate relief as indicated above. At any rate, the registering authority shall not withhold the deed which has already been registered.*

(vi) *Consequently the connected miscellaneous petitions are closed. No costs."*



W.P(MD)No.1849 of 2023

Adopting the very same approach, I permit the petitioners to re-present the document in question. On receipt thereof, the second respondent shall follow the procedure laid down above. This exercise shall be completed within a period of eight weeks thereafter.

4.This writ petition is disposed of accordingly. There shall be no order as to costs.

22.02.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

1.The District Registrar,
Tenkasi District,
Tenkasi.

2.The Sub Registrar,
Sankarankovil,
Tenkasi District.



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W.P(MD)No.1849 of 2023

G.R.SWAMINATHAN, J.

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W.P(MD)No.1849 of 2023

22.02.2023