



1

W.P.(MD)NO.6266 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.6266 of 2022

1. Velammal
2. P.K.Prasanna
3. Ratheesh ... Petitioners / Petitioners

Vs.

1. The Inspector General of Registration,
Registration Department,
Chennai.
2. The District Registrar,
Registration Department,
Nagercoil,
Kanyakumari District.
3. The Sub Registrar,
Thuckalay Sub Registrar Office,
Thuckalay,
Kanyakumari District.
4. The Assistant Commissioner,
HR&CE Department,
Nagercoil,
Kanyakumari District. ... Respondents/Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified



Mandamus, to call for the records relating to the impunged order in NA.KA No.156/2021 dated 06.07.2021 passed by the 3rd respondent and quash the same and further direct the 3rd Respondent to registrar the sale deed dated 23.06.2021 Document Temporary No.T.P/102827810/2021.

For Petitioner : Mr. V.M.Balamohan Thampi

For R-1 to R-3 : Mr.M.Prakash,
Additional Government Pleader.

For R-4 : Mr.N.Ramesh Arumugam,
Government Advocate.

* * *

ORDER

Heard both sides.

2. The petitioners executed the petition-mentioned documents and presented them for registration before the third respondent. The third respondent vide memo dated 06.07.2021 informed the petitioner that since the property covered under the document is standing in the name a temple, without any NOC from the HR&CE department, it is not possible to register the document. The third respondent also placed reliance on the proceedings bearing Na.Ka.No.



152/2021 dated 23.06.2021 issued by the fourth respondent.

Challenging the said memo, the present writ petition came to be filed.

3. The issue on hand is covered by the decision of the Hon'ble Division Bench of this Court reported in **2017 3 CTC 135 (Sudha Ravi Kumar Vs. The Special Commissioner & Commissioner, H.R. & C.E. Department)**. The Hon'ble Division Bench had held as follows:-

“ 25. 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.



WEB COPY



(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.

(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



WEB COPY



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."

4. Respectfully following the aforesaid decision, the impugned communication is set aside. The matter is remitted to the file of the registering authority. An enquiry shall be held as laid down above. The parties can decide on their next course of action based on the outcome of the enquiry. The entire exercise shall be concluded within a period of twelve



weeks from the date of receipt of a copy of this order.

WEB COPY

5. This writ petition stands allowed on these terms. No costs.

04.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PMU



WEB COPY

7

W.P.(MD)NO.6266 OF 2022

G.R.SWAMINATHAN,J.



PMU

To:

1. The Inspector General of Registration,
Registration Department,
Chennai.
2. The District Registrar,
Registration Department,
Nagercoil,
Kanyakumari District.
3. The Sub Registrar,
Thuckalay Sub Registrar Office,
Thuckalay,
Kanyakumari District.
4. The Assistant Commissioner,
HR&CE Department,
Nagercoil,
Kanyakumari District.

W.P.(MD)No.6266 of 2022

04.10.2023



WEB COPY

