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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2023

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.10003 of 2023

G.Ganesan

... Petitioner

Vs.

1.The Deputy Inspector General of Registration,
O/o Combined Registration Complex,
TNAU Nagar, Rajakambeeram,
Y.Othakadai,
Madurai.

2.The Sub Registrar,
Thiruppuvanam,
Sivagangai District.

3.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Sivagangai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for records in pursuance of the Impugned Order dated 06.02.2023 passed by the 2nd respondent vide No.2-15 and to quash the same and consequently direct the 2nd Respondent to register the document pending for registration vide Doc.No.P51/2022 dated 15.09.2022 and release the same.



For Petitioner :Mr.Babu Rajendran
For R1 – R2 :Mr.M.Prakash
Additional Government Pleader
For R3 :Mr.M.Senthil Ayyanar
Government Advocate

ORDER

The writ petition has been filed in the nature of certiorarified mandamus seeking interference with an order of the second respondent / the Sub Registrar, Thiruppuvanam, Sivagangai District dated 06.02.2023 in No.2-15 and to direct the said respondent to register a document presented for registration vide Document No.P51/2022 dated 15.09.2022.

2. The second respondent had refused to register a sale deed presented by the petitioner herein. The said sale deed was executed by one M.Sivarajan and his brothers M.Thangamani and M.Jeevanantham in favour of the petitioner. It was executed on 26.08.2022. The second defendant had kept it pending on the ground that the petitioner should obtain a no objection certificate from the third respondent / the Joint Commissioner, Hindu Religious and Charitable Endowment, Sivagangai. The land for which sale deed was presented is for the land measuring 230 sq.ft in Survey No.101/31 at Thiruppuvanam Pudur,



Thiruppuvanam Taluk, Sivagangai District. The vendor's vendor of the petitioner presented a sale deed with respect to a larger area of land. Again it was stipulated that no objection should be obtained from the third respondent, the Joint Commissioner, Hindu Religious and Charitable Endowment, Sivagangai.

3. The fact would reveal that a suit had been filed in O.S.No.105/2005 before the Principal District Munsif Court, Manamadurai by K.Mayilvel against various occupants in the land seeking ejectment. The defendants therein put up a defence that the land had been donated for the purpose of doing water charity. That contention, proceeded through its normal course and finally, fell for consideration before the learned Single Judge of this Court in S.A.(MD)No.394 of 2013 which was preferred by the respondents / 5 and 6 defendants in the suit. By a judgment dated 15.07.2013, the learned Single Judge had finally held as follows:

" 24. The present suit has been instituted for the relief of recovery of possession by way of stating that the present defendants have been enjoying the suit property as tenants. In fact on the side of the first respondent / plaintiff, exponential evidence has been let in for the purpose of proving that the plaintiff is having title to the suit property and further the suit property has not been absolutely dedicated for the purpose of



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doing water charity and in fact the suit property is burdened with such kind of charity and therefore the plaintiff is very well having locus standi to institute the present suit. Even at the risk of repetition, the Court would like to point out that the plaintiff has clearly established his alleged title to the suit property and also he clearly terminated the tenancy rights of the defendants and under the said circumstances the plaintiff is entitled to get the relief sought for in the plaint."

4. On the basis of this particular finding given, which is binding on all the parties, the said Mayilvel / plaintiff in the suit had filed a writ petition in W.P.(MD)No.19280 of 2019 stating that no objection certificate is not required from the Hindu Religious and Charitable Endowment Department. By an order dated 22.03.2021 in the aforementioned writ petition, the said contention was upheld and the learned Single Judge, after an extremely detailed discussion on facts had finally held that the impugned endorsement made in the receipt for registration is to be set aside. In fact, it was held that no objection certificate need not be obtained. The order is to the advantage of the petitioner herein since the petitioner produced all records of the land and it had been conclusively held that no objection certificate need not be obtained from the third respondent. Unfortunately, the second respondent had not appreciated the entire fact in its entirety.



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5. In view of the judicial pronouncement, the impugned order is set aside and a direction is given that the petitioner should present the document of sale through online after following due procedure and on its presentation, it if is otherwise in order, relating to stamp duty and registration charges, a direction is issued to the second respondent to register it within a period of two weeks from the date on which it is presented.

6. This Writ Petition is allowed. No costs.

19.06.2023

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

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C.V.KARTHIKEYAN, J.

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To

- 1.The Deputy Inspector General of Registration,
O/o Combined Registration Complex, TNAU Nagar, Rajakambeeram,
Y.Othakadai, Madurai.
- 2.The Sub Registrar, Thiruppuvanam, Sivagangai District.
- 3.The Joint Commissioner, Hindu Religious and Charitable Endowment,
Sivagangai.

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