



W.P.(MD)No.16535 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.16535 of 2020
and
W.M.P.(MD).No.13828 of 2020

K.Seenivasan

... Petitioner

Vs.

- 1.The Special Commissioner and Commissioner,
Hindu Religious and Charitable Endowment Department,
Chennai – 14.
- 2.The Joint Commissioner,
Sri Renganathaswamy Temple,
Hindu Religious and Charitable Endowment Department,
Srirangam, Trichy.
- 3.The Sub Registrar,
Sub Registrar Office,
Srirangam, Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the third respondent proceedings in Registration Refusal No.135/2020 dated 05.08.2020 and quash the same and consequently, to direct the third respondent to register the document relating to the property comprised in T.S.No.2252 Part under Thakku No.4 measuring an extent of 1200 Sq.ft land situated in Block



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No.50, Srirangam Drainage Street, Velithirumutham Village, Srirangam Taluk, Trichy District without insisting No Objection Certificate from the second respondent and release the same forthwith.

For Petitioner : Mr.K.Chengiz Khan
For R-1 : Mr.N.Ramesh Arumugam
Government Advocate
For R-2 : Mr.M.Saravanan
For R-3 : Mr.A.K.Manikkam
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned rejection order dated 05.08.2020 in Registration Rejection No.135/2020, passed by the third respondent and for a consequential direction to the third respondent to register the document relating to the subject property without insisting No Objection Certificate from the second respondent and release the same forthwith.

2. Heard the learned counsel appearing on behalf of the petitioner, the learned Government Advocate appearing on behalf of the first respondent, the learned counsel appearing on behalf of the second respondent and the learned Special Government Pleader appearing on behalf of the third respondent.



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3. The case of the petitioner is that he is a purchaser under the sale deed that was executed in his favour. When the document was presented for registration, the same was kept pending by the Sub Registrar for more than a decade on the ground that some objection has been made by the second respondent Temple.

4. The grievance of the petitioner is that the impugned rejection order came to be passed without conducting any enquiry and only based on the objection that was made by the second respondent Temple. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5. In the considered view of this Court, the issue that is involved in the present Writ Petition is squarely covered by the earlier order passed by the Division Bench in the case of ***Sudha Ravi Kumar and another Vs The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department***, reported in ***2017 (3)CTC 135*** and for proper appreciation Paragraph No.25 of the judgment is extracted hereunder:

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



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(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.*

(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.*



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(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.*

6. It will also be relevant to take note of the order dated 12.02.2020 passed in ***W.P.(MD).No.1464 of 2020*** in the case of ***P.Varadharajan Vs. The Special Commissioner and Commissioner, HR & CE and others*** in this regard. The relevant portions of the order are extracted hereunder:

“6. Mere claim by the HR & CE Department is not sufficient for the Sub Registrar to refuse the document. Unless the title of temple is acknowledged by a Civil Court or the temple produce sufficient documents to prove its lawful title, the Register cannot refuse to register the document presented by individual. Section 22(A) of Registration Act prescribes only when the Registering Authority has reason to believe that the property belongs to



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any institution, which comes under the purview of HR & CE Act. When the previous document was registered without any objection, it is improper to refuse to register the document on the ground of objection raised by H.R. & C.E. Department.

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8.It is made clear that in a case, where the temple claims title to a property, the temple should give the list of document of title to prima facie satisfy the registering officer that the temple has lawful claim against the property referred to in such objection. After satisfying that the properties belongs to the temple as per the old revenue records or that the temple has a lawful claim against any strangers, the third respondent is expected to entertain such objection. When further objection is received from the HR & CE Department, the third respondent is directed to hold an enquiry after giving opportunity to the person, who present the document for registration and others, who are interested, including HR & CE Department and take a decision in accordance with law. The procedure directed by this Court referred to above shall be followed by the Registering Officer in all cases in future. Since there is no objection by the temple or H.R.&C.E. Department and the absolute title of petitioner is admitted, the Writ Petition deserves to be allowed.”



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7. In view of the above, the impugned refusal order passed by the Sub Registrar is hereby quashed. The matter is remanded back to the file of the Sub Registrar and the Sub Registrar is directed to afford opportunity to the petitioner as well as to the second respondent Temple. The objections shall be heard in the light of the directions issued by the Division Bench in the case of ***Sudha Ravi Kumar and another Vs The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department***, reported in **2017 (3)CTC 135** as stated supra and also the order passed in W.P.(MD). No.1464 of 2020 dated 12.02.2020. A final decision shall be taken on its own merits and in accordance with law within a period of three (3) months from the date of receipt of a copy of this order.

8. In the result, this Writ Petition is allowed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

14.12.2023

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To

WEB COPY

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N.ANAND VENKATESH, J.

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