



W.P.(MD)No.16236 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.16236 of 2021

and

W.M.P.(MD).Nos.13079 and 13080 of 2021

Arunkumar

... Petitioner

Vs.

1.The District Registrar,
Combined Register Office,
Chennamanayakkanpatti,
Dindigul – 624 004.

2.The Sub Registrar, Natham,
Office of the Sub Registrar,
Natham,
Dindigul District.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowment Department,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned communication in Na.Ka.No.3576/2020/3 dated 18.03.2021 on the file of the third respondent addressed to the second respondent and the



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consequential communication in Na.Ka.No.166/2021 dated 28.07.2021 on the file of the second respondent and quash the same as arbitrary, illegal and without jurisdiction, insofar as it relates to S.No.529/9C of Nadumandalam Village (carved out of S.No.529/9 old S.No.529/2 originally in S.No.827) and for a consequential direction to the respondents not to insist on a 'No Objection Certificate' from the third respondent for registration of documents relating to the petitioner's property situated in S.No.529/9C of Nadumandalam Village, Natham Taluk, Dindigul District.

For Petitioner : Mr.H.Lakshmi Shankar

For R-1 and R-2 : Mr.A.K.Manikkam
Special Government Pleader

For R-3 : Mr.N.Ramesh Arumugam
Government Advocate

ORDER

This Writ Petition has been filed challenging the impugned communication dated 18.03.2021 made by the third respondent to the second respondent and the communication dated 28.07.2021 on the file of the third respondent, insofar as the subject properties are concerned and for a consequential direction to the respondents not to insist for any No Objection Certificate from the third respondent and to register the document pertaining to the subject property in Survey No.529/9C at Nadumandalam Village, Natham Taluk, Dindigul District.



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2. The case of the petitioner is that the title with respect to the subject property is traceable from the year 1897 through the sale deed dated 04.02.1897. Thereafter, the property has been dealt with by many persons and ultimately, the petitioner's vendor became the owner of the property by virtue of a registered sale deed dated 05.09.2002 registered as Document No.1099 of 2002 and he purchased plot Nos.33 and 34 through this document. Patta was also issued in his name and he was in possession and enjoyment of the same. These plots were purchased by the petitioner through a registered sale deed dated 09.12.2019. Thereby, the petitioner is claiming to be the absolute owner of the subject property which are Plot Nos.33 and 34.

3. The grievance of the petitioner is that he wanted to sell his property and when he enquired, he was informed that there is a communication made by the third respondent to the second respondent to the effect that the subject property is a temple land. On that basis, the second respondent had also made appropriate endorsement in the records maintained by the Sub Registrar Office. Hence, the second respondent was insisting for obtaining No Objection Certificate from the third respondent. Aggrieved by the same, the present Writ Petition has been filed before this Court.



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4. Heard the learned counsel appearing on behalf of the petitioner, the learned Special Government Pleader appearing on behalf of the respondents 1 and 2 and the learned Government Advocate appearing on behalf of the third respondent.

5. The petitioner is able to lay his hands to documents dating back to the year 1897. That apart, the petitioner is also able to lay his hands to the survey and settlement register, re-settlement register etc. Apart from that, the acquisition proceedings has also taken place resulting in the payment of compensation to the owners of the lands. Hence, there are heaps of materials placed before this Court to establish that the property was always dealt with only by the private individuals for more than a century. However, the communication from the third respondent to the second respondent dated 18.03.2021 merely states that the property belongs to a Temple. There is no reference as to which Temple is claiming the right over the property. When the petitioner wanted to get the details under the Right to Information and made an application on 21.06.2021, the Assistant Commissioner of Hindu Religious and Charitable Endowment Department, Dindigul, replied by stating that there are no particulars available to show as to which Temple is claiming ownership over



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the lands. It is therefore clear that except for a general statement made by the third respondent that the subject property belongs to the Temple, there is not even a scrap of paper to show to which Temple this property belongs.

6. The Right to Property is dealt with under Article 300-A of the Constitution of India. No person should be deprived to deal with his own property. If the petitioner is prevented from dealing with his property, the petitioner must be told as to which Temple is claiming right over the property. In the absence of the same, a general statement cannot be put against the petitioner and the petitioner cannot be prevented from dealing with his property.

7. In the light of the above discussion, the impugned communication dated 28.07.2021 is hereby set aside. The petitioner shall present the sale deed before the second respondent. The second respondent shall issue notice to the third respondent and the matter shall be dealt in line with the judgment of the Division Bench in the case of ***Sudha Ravi Kumar and others Vs The Special Commissioner and Commissioner, HR and CE Department***, reported in **2017 (3) CTC 135**. The relevant portion in the judgment is extracted hereunder:



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“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.

(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



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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.”

8. If ultimately, the third respondent is not able to give any clarity as to which Temple is claiming right over the property, the second respondent shall proceed further to register the document, subject to the fulfillment of all the other requirements.



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9. This Writ Petition is allowed with the above directions. No costs.

Consequently, connected miscellaneous petitions are closed.

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

To

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N.ANAND VENKATESH, J.

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