



W.P.(MD) No.18048 of 2020

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.03.2023

CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

W.P.(MD) No.18048 of 2020

C.Subramania Pillai

... Petitioner

/vs./

1.The Inspector General of Registration,
100, Santhome High Road,
Santhome, Chennai.

2.The Sub Registrar,
Edalakudy,
Kanyakumari District.

3.P.Vivek

... 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 of the check slip bearing Refusal No.RFL/Edalakudy/36/2020 and dated 10.11.2020 on the file of the 2nd Respondent and to quash the same as illegal and without jurisdiction and to consequently direct the 2nd respondent to register and release the sale deed dated 09.11.2020 executed by the petitioner in favour of the 3rd respondent.



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For Petitioner : Mr.M.Ashok Padmaraj
For R1 & R2 : Mr.T.Amjadkhan
Government Advocate
For R3 : No appearance

ORDER

Challenging the check slip refusal No.RFL/Edalakudy/36/2020 dated 10.11.2020 on the file of the 2nd respondent, the petitioner is before this Court.

2.The facts are briefly set out hereunder:-

3.The property comprised in S.No.351/7A at Suchindram Village belonged to Kasi Mutt at Thirupapandal. Under a sale deed dated 20.09.2007, registered as Doc.No.3273 of 2007, the Mutt had sold the said property to the petitioner along with other properties. Since the purchase, the petitioner has been in exclusive possession and enjoyment of the said properties. The petitioner had thereafter entered into a deed of sale dated 10.11.2020 to sell an extent of 1.1 hectare and 3.5 cents. When this deed was presented for registration, the second respondent refused to register the same stating that the properties of the Mutt come within the jurisdiction of the HR & CE Department as declared by the judgment of this Court in C.S.No.208 of 1927 dated 20.02.1935.



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4.The petitioner would submit that the property, which is the subject matter of sale deed dated 10.11.2020, did not come within the control of the Board. That apart, the Mutt had sold the property in 2007 along with other properties and thereafter, the petitioner has executed the document of sale, which has been registered without any objection. Therefore, the petitioner has come forward with the present writ petition.

5.Heard the learned counsels on either side.

6.A perusal of the decree in C.S.No..208 of 1927 dated 20.02.1935 would indicate that only those properties, which have been described in the schedule to the decree, constituted a religious endowment attached to the Kasi Mutt. All other properties, which were in the possession of the second plaintiff therein, namely, His Holiness Kasivasi Swaminatha Thambiran Avargal of Kasi Mutt, were his exclusive properties and the defendant Board namely, the Board of Commissioners for Hindu Religious Endowments, Madras, had no jurisdiction over the same.



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7.A perusal of the schedule to the decree clearly shows that the property that is now the subject matter of registration has not been included in the same. Therefore, the refusal of the second respondent appears to be without any basis. Consequently, the Writ Petition is allowed.

8.The respondents 1 and 2 are directed to consider the judgment passed in C.S.Nos.208 of 1927 and 89 of 1928 as also the proceedings of the Commissioner of HR & CE Department, dated 30.03.2007, wherein it has been clarified that only the properties that are the subject matter of the proceedings before the Court alone would constitute a religious endowment attached to the Mutt and in respect of all other properties, the Board of Commissioner, HR & CE has no jurisdiction and pass appropriate orders for registering the document presented by the petitioner. The said exercise shall be completed within a period of three weeks. However, there shall be no order as to costs.

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

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To

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- 2.The Sub Registrar,
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P.T.ASHA, J.

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