



W.P(MD)No.24981 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 16.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24981 of 2023

and

W.M.P.(MD)No.21178 of 2023

S.Prabhu

... Petitioner

Vs.

- 1.The Joint Commissioner / Executive Officer,
Hindu Religious and Charitable Endowments,
Arulmighu Inmaiyl Nanmai Tharuvar Thirukovil,
15, Arisekara Street,
Melamasi Veethi, Periyar,
Madurai – 1.
- 2.The Manager,
Sivagangai Samasthanam Devasthanam,
Sivagangai.
- 3.The District Registrar,
Registration Department,
Integrated Complex of Registration Department,
TNAU Nagar, Rajakampeeram,
Madurai.



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4.The Sub Registrar, Joint – I,
Othakadai Sub Registrar Office,
Integrated Complex of Registration Department,
TNAU Nagar, Rajakampeeram,
Madurai.

... 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 the records pertaining to the impugned order of the fourth respondent in Na.Ka.No.4280/R1/2023 dated 26.06.2023 and quash the same and consequently directing to the fourth respondent to register the petitioner pending document No.P-55 of 2023.

For Petitioner : Mr.K.Sathiya Singh

For Respondents : Mr.N.Ramesh Arumugam for R.1

Mr.K.Balasubramani
Special Government Pleader
for R.3 & R.4

ORDER

Heard the learned counsel appearing for the writ petitioner, the learned counsel appearing for the first respondent and the learned Special Government Pleader appearing for the respondents 3 and 4.



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2. The petitioner wanted to alienate the petition mentioned land.

After hearing both sides, the fourth respondent came to the conclusion that the document cannot be allowed to be registered because it is a Arthajama Kattalai land.

3. According to the learned counsel appearing for the second respondent, without complying with the statutory mandate set out in Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, alienation cannot be allowed.

4. The learned counsel appearing for the petitioner submits that patta in respect of the petition mentioned land is standing in the name of the petitioner. He also would point out that when the second respondent filed W.P(MD)No.16488 of 2020, it was dismissed by granting liberty to the second respondent to move the jurisdictional civil Court. The learned Standing Counsel appearing for the second respondent would submit that the second respondent has already filed civil suits and that the petition mentioned property is also covered in the suit schedule.



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5. In matters such as this, neither the registering authority nor the writ Court would be justified in going into the contentious issues of title. It is civil Court that must render findings as to whether the petition mentioned land is a Kattalai land or not. If already a civil suit has been filed in respect of the petition mentioned land and if the petitioner is not a defendant in the said suit, he can very well get himself impleaded. If he is already a defendant, it is for him to contest the suit. Unless the civil Court determines the issue, the petitioner will not be entitled to present the document for registration. I make it clear that I have not gone into the merits of the matter. The contentions of the writ petitioner on the one hand and the second respondent on the other are left open.

6. This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

16.10.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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