



W.P.(MD)No.27906 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 09.01.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.27906 of 2022

and

W.M.P(MD).Nos.21975 and 21976 of 2022

Subbulakshmi

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Board,
Madurai District.

3.The Executive Officer/Assistant Commissioner,
Arulmigu Subramania Swamy Thirukovil,
Thirupparankundram, Madurai.

4.The Tahsildar,
Thirupparankundram Taluk,
Madurai.

5.The Sub Registrar,
Thirupparankundram,
Madurai.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records



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relating to the proceedings issued by the fifth respondent in Na.Ka.No. 315/2022 dated 22.11.2022 and quash the same as illegal and consequently direct the respondents to act accordingly in registering any documents pertaining to the lands measuring about 1532sq.ft, Door No. 77 in R.S.No.196/14A, Periya Radhaveethi, Thiruparankundram, Ward No.98 Madurai Corporation, vide Registered Document No.246 of 1997 upon partition document of the land, said land house side plot in the said land.

For Petitioner : Mr.T.Palanisamy
For Respondent : Mr.S.Shanmugavel (for R1, R2, R4 & R5)
Additional Government Pleader
Mr.V.Chandrasekar (for R3)

ORDER

The writ petitioner's case is that the third respondent temple does not have any right over the property in question. According to the petitioner, she is at liberty to deal with the property as she deem fit and that the registering authority ought to register the document as and when presented for registration.

2.While considering a similar issue, the Hon'ble Division Bench in the decision reported in **2017 (3) CTC 135 (Sudha Ravi Kumar and**



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Ors. Vs. The Special Commissioner and Commissioner, Hindu

Religious and Charitable Endowments Department and Ors, held as

under :

“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.



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(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.

(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.”

3.The registering authority shall adhere to the directions set out above. Accordingly, the writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

09.01.2023

NCC : Yes / No
Index : Yes / No
Rmk



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G.R.SWAMINATHAN,J.,

Rmk

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