



W.P(MD)No.27251 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.27251 of 2023

and

W.M.P.(MD)No.23398 of 2023

T.P.Manjunath

... Petitioner

Vs.

- 1.The Inspector General of Registration,
No.100, Santhome Highways,
Chennai.
- 2.The Deputy Inspector General of Registration,
Integrated Registration Office Complex,
Rajakambeeram, Y.Othakadai,
Madurai-625 107.
- 3.The District Collector,
Madurai District,
Madurai.
- 4.The District Registrar,
O/o.The District Registrar,
Madurai South, Palace Road,
Madurai-625001.
- 5.The Revenue Divisional Officer,
Collectorate Campus,
Madurai.
- 6.The Tahsildar,
Taluk Office, Thirupparankundram,
Madurai-625 005.



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7.The Sub Registrar,
Sub Registration Office,
Thirupparankundram,
Madurai-625 005.

8.K.R.Meenakshi Sundaram

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 4th respondent to cancel the sale deed executed on 03.08.2009 and presented for registration on 06.08.2010 vide Doc.No.P135/2010 and registered as Doc.No.5609 of 2023 dated 18.08.2023 after 13 years of execution on the file of the 7th respondent in respect of the property comprised in Survey No.32/2 to an extent of 29 cents, situated at Moolakarai, Thirupparankundram, Madurai District U/s.77(A) of Tamil Nadu Registration Act and consequently, direct the respondents 3,5 and 6 not to effect any changes in the mutation records, based on the petitioner's representation dated 12.10.2023.

For Petitioner : Mr.R.Murugan

For Respondents : Mr.S.Ra.Ramachandran
Additional Government Pleader for R1 to R7

: Mr.B.Saravanan
Senior Counsel
for Mr.RM.Arun Swaminathan for for R8

ORDER

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the official respondents and the learned senior counsel assisted by the learned counsel for the 8th respondent.



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2. The petitioner is the son of late.Paramesh and Basava Subbu. The property belonging to the family was sold in favour of the 8th respondent. Challenging the registration of the said document, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4. I am not persuaded by the said submission. As rightly pointed out by the learned senior counsel appearing for the 8th respondent, the registration of the document took place pursuant to the order of this Court made in W.P. (MD)No.249 of 2023 on 28.02.2023. Paragraph Nos.2,3,4&5 of the said order read as follows:-

“2. The petitioner herein purchased the petition mentioned property vide sale deed dated 06.08.20210 and presented the same for registration before the second respondent. It was kept as a pending document for very long time and appears to have been returned to the petitioner recently. The primary ground, on which, the second respondent had declined to register the document is that in the guideline register, zero value has been ascribed to the petition mentioned survey number. The registration department is under impression that the property in question is a temple land.



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3. My attention is drawn to the Judgment and Decree dated 09.03.1977 made in S.A.No.1783 of 1974. The suit was instituted by the petitioner's predecessor-in-title. Having lost in both the courts below, the second appeal was filed before the High Court. The suit was for declaration of title and for permanent injunction restraining the State from interfering with his possession and enjoyment of the suit property. The second appeal was allowed and the appellant's claim of title to the suit property was declared. Permanent injunction was also granted. An observation was made that it was open to the Hindu Religious and Charitable Endowment Department to take such steps as they may be advised if it is their contention that the property has since become a public temple. Since the petitioner's vendors faced interference at the hands of the HR & CE Department, they instituted O.S.No.919 of 2012 and O.S.No.1212 of 2012 before the Sub Court, Thirumangalam. The suits were tried together. By Judgment and decree dated 22.02.2017, both the suits were decreed in favour of the plaintiffs. It was specifically declared that the temple in question is not a public temple and that it is not amenable to the jurisdiction of HR & CE Department. However, an observation was made in Paragraph No.27 which gave leverage to the HR & CE Department. Seeking deletion of the said observation, the plaintiffs filed I.A.No.233 of 2017 in O.S.No.919 of 2012. The said IA was dismissed on 17.11.2017. Aggrieved by the same, the plaintiffs filed C.R.P.No.1285 of 2021. Vide order dated 28.01.2022, the order of the trial Court was set aside and the Civil Revision Petition was allowed in the following terms:-

“5. Admittedly, the civil Court declared the Temple, as a private temple, belonging to the plaintiff's family, the HR & CE, no locus standi to take action against the plaintiff's temple. For this reason, this Court is inclined to set aside the order passed by the Court below.

6. In the result, the Civil Revision Petition is allowed by setting aside the order, dated 17.11.2017 in I.A.No.233 of 2017 in O.S.No.919 of 2012 passed by the learned Sub Judge, Thirumanglam and the particular observation in the Judgment made in O.S.Nos.919 and 212 of 2012 is hereby removed. No costs.”

Thus, the plaintiff's predecessors-in-title had secured two fold declarations.

(i) The temple in question is a private temple.



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(ii) The property is their absolute property.

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4. The State of Tamil Nadu as well as HR & CE Department are parties to the said decrees. In these circumstances, the registration department cannot take a stand that they would not register the petition mentioned sale deed. The petitioner is permitted to re-present the document in question. The second respondent shall register it and release it subject to fulfilment of usual formalities. If any correction or revision has to be made in the guideline register, it is for the registration department to do so. The entire exercise shall be completed within a period of ten weeks from the date of presentation of the petition mentioned sale deed.

5. The Writ Petition is allowed. No costs.”

5. The learned counsel for the petitioner would place some emphasis of the expression “subject to fulfilment of usual formalities”. The learned counsel for the petitioner would contend that during the relevant time, the petitioner was a minor. But then, he has since attained majority. The petitioner can no longer be represented by his mother. According to the petitioner's counsel, registration is bad in law. This contentions may not have any weight. This is because, the registration would date back to the execution of the sale deed itself. Secondly, the facts obtaining in the case on hand are some different. The document was presented by the executant and the purchaser in 2010 itself. On account of the issues raised by the registration department and the HR & CE department, the registration formalities could not be completed. It was kept as a pending document. It was returned to the petitioner recently and I permitted



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the 8th respondent herein to re-present the document. That does not mean that it should be jointly presented by the executant of the document and the purchaser together.

6. In these circumstances, the present writ petition is not maintainable. The Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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