



WP(MD)No.27896 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.27896 of 2023
and W.M.P(MD).Nos.23993 and 23994 of 2023

Gopalakrishnan Sankaran
Rep.through his Power Agent,
Shri Ka.Krishnan

.. Petitioner

vs.

- 1.The District Registrar,
O/o.District Registrar,
Madurai District,
Madurai.
- 2.The Sub-Registrar,
O/o.Sub-Registrar,
Thallakulam,
Madurai,
Madurai District.
- 3.The Deputy Commissioner/Executive Officer,
Arulmigu Kallalagar Thirukovil,
Alagarkovil,
Madurai District.
- 4.The Special Thasildar,
Temple Lands,
O/o.Assistant Commissioner,
Madurai.



WP(MD)No.27896 of 2023

5.The Thasildar,
O/o.Thasildar,
Madurai North,
Madurai District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari Mandamus, calling for the records relating to the impugned order passed by the third respondent vide his proceedings in Na.Ka.No.879/2021/A1 dated 04.10.2023 and quash the same as illegal and consequently, direct the second respondent to register the mortgage deed pending on the file of the second respondent vide Document No.P/Thallakulam/35/2023 within the time that may be stipulated by this Court.

For Petitioner : Mr.Ajmal Khan
Senior Counsel

For Respondents : Mr.P.Subaraj
Special Government Pleader
for R1, R2, R4 and R5
Mr.S.Manohar for R3

ORDER

The petitioner has submitted a mortgage deed for registration with regard to the property in S.Nos.1046 & 1054/1 at Ward No.10, Block No.89 and the same was refused to be registered by the 2nd respondent by the order impugned in this writ petition that it is a temple property which belongs to Arulmigu Kallalagar



WP(MD)No.27896 of 2023

Thirukoil. Therefore, the petitioner was directed to get No Objection Certificate from the 3rd respondent temple for registering the Document No.P/Thallakulam/35/2023.

2. The learned senior counsel appearing for the petitioner submits that the subject land belongs to Ramanatha Sethupathi and from him, it has been devolved to the petitioner's vendor, one Indra Devi. The 3rd respondent claiming to be the owner of the property, has filed a suit in O.S.No.367 of 1989 before the II Additional Sub Court, Madurai as against the said Indra Devi. The suit was dismissed by the trial court and the first appeal preferred by the Temple before the Principal Bench of this court in A.S.No.327 of 1991 was also dismissed and it became final. The 3rd respondent Temple who lost the civil suit with the petitioner's vendor is not justified in raising the issue once again by sending a communication to the 2nd respondent/Sub Registrar and the 2nd respondent has also mechanically passed the impugned order without providing the opportunity to the petitioner.

3. The learned counsel appearing for the third respondent admits that the Temple Administration has not filed any appeal as against the judgment and decree



WP(MD)No.27896 of 2023

passed in A.S.No.327 of 1991 dated 08.07.2022, however, he claims that the subject property belongs to the Temple.

4. This Court considered the rival submissions made by both parties and perused the materials available on record.

5. The third respondent Temple has filed a suit in O.S.No.367 of 1989 before the II Additional Sub Court, Madurai, as against the petitioner's vendor, namely, Indira Devi, in respect of the subject property and the same was dismissed on 24.07.1990, as against which, the third respondent Temple filed an appeal in A.S.No.327 of 1991 before the Principal Seat of this Court and it was also dismissed, vide judgment and decree dated 08.07.2002. That was not challenged and it becomes final. When the judgment and decree is in favour of the petitioner's vendor, there is no impediment for the second respondent to register the mortgage deed presented by the petitioner, who has purchased the subject property from the decree holder. Hence, the impugned order dated 04.10.2023 is set aside and the second respondent is directed to register the document presented by the petitioner, without insisting him to get No Objection Certificate from the third respondent Temple.



WP(MD)No.27896 of 2023

6. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Connected miscellaneous petitions are closed.

05.12.2023

Index : Yes / No
NCC : Yes / No
Internet : Yes
ssb

To

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WP(MD)No.27896 of 2023

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WEB COPY



WP(MD)No.27896 of 2023

B.PUGALENDHI, J.

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WP(MD)No.27896 of 2023

05.12.2023