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WP.No.6484 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

WP.No.6484 of 2024
W.M.P.No.7209 of 2024

Somasundaram

.. Petitioner

Versus

1.The Special Commissioner,
Hindu Religious and Charitable
Endowments Department,
Chennai-600 034.

2.The Inspector General of Registration,
Santhome High Road,
Chennai-600 004.

3.The District Revenue Officer,
Tiruppur District.

4.The Sub Registrar,
Office of the Sub Registrar,
Kangeyam, Tiruppur District.

5.The Executive Officer,
Arulmigu Utthandhi Velaiyudhaswamy Thirukovil,
Udhioor, Tiruppur.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the fourth respondent in impugned letter dated 21.02.2024, quash the same



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and consequently, direct the fourth respondent to register the document dated 07.11.2023.

For Petitioner : Mr.V.Ayyadurai, S.C., for
Mr.M.Velmurugan

For Respondent : Mr.K.Karthikeyan,
Government Advocate(HR&CE) for R1 & R5

Mr.B.Vijay,
Additional Government Pleader for R2 to R4

ORDER

Challenge has been made to the refusal check slip issued by the fourth respondent refusing to register the sale deed dated 07.11.2023 on the ground that the temple authorities have sent a letter dated 14.03.2023 contending that the lands to an extent of 4.90 acres survey Nos.133B1A, 133B1B and 133B2B of Udhioor Village, Kangayam Taluk, Tiruppur District belong to Arulmigu Uthandavelauthaswamy Thirukoil, Udhioor Village and thereby, not to entertain any document in respect of said properties.

2. Heard both sides and perused the materials placed on record.

3. By consent of both parties, the main writ petition itself is taken up for final disposal at the admission stage itself.

4.It is the case of the writ petitioner that as far as the disputed



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property is concerned, he is in possession and enjoyment of the property from the date of purchase and patta was issued to the land in survey Nos.133B1A, 133B1B and 133B2B of Udhioor Village, Kangayam Taluk, Tiruppur District, to an extent of 4.90 acres in the name of the temple by the Settlement Tahsildar-II Erode in S.S.No.356/69/MI Act/Dharapuram/dated 06.02.1970 and challenging the same, the said Palanisamy Gounder had filed C.M.A.No.238 of 1970 before the Minor Inam Tribunal, Coimbatore and the Tribunal, by judgment dated 16.09.1971, allowed the appeal by setting aside the order of Settlement Tahsildar and had also directed to issue patta to the appellant under Section 9(1)(i) of the Act. Thereafter, Ryotwari patta has been issued to the said Palanisamy Gounder and pursuant to the same, revenue records have also been changed. In such view of the matter, when the documents were presented for registration, the same was refused by the fourth respondent on the ground that the temple authorities under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, has sent a letter dated 14.03.2023 contending that the lands to an extent of 4.90 acres in survey Nos.133B1A, 133B1B and 133B2B of Udhioor Village, Kangayam Taluk, Tiruppur District, belong to Arulmigu Uthandhi Velauthaswamy Thirukoil, Udhioor Village, and thereby not to entertain any document in respect of said properties. Challenging the same, the present writ petition has been filed.



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5. A counter affidavit has been filed by the fifth respondent viz., the Executive Officer, Arulmigu Utthandhi Velayudhaswamy Thirukovil, Uthiyur, Tiruppur. According to him, the property belonged to the temple and the revenue records relating to the suit properties are mutated in the names of the third persons by removing the name of the temple and patta transfer proceedings has also been made. He has also admitted that there were proceedings before the authorities under the Tamil Nadu Minor Inams(Abolition and Conversion into Ryotwari) Act and the said proceedings is not valid and civil suit is pending before the Sub Court, Kangeym, for recovery of possession. Therefore, he seeks to dismiss the writ petition.

6. The fourth respondent has filed counter on behalf of the second respondent also contending that the document sought to be registered by the petitioner is refused on the ground that a letter dated 14.03.2023 has been received from the fifth respondent contending that the lands belong to Arulmigu Uthandavelauthaswamy Thirukoil, Udhioor Village, and not to entertain any document in respect of said properties and therefore, the petitioner was directed to submit 'No Objection Certificate' from HR & CE Department so as to register the same and sought to dismiss the writ petition.



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7. At the outset, a perusal of documents makes it very clear that settlement proceedings has been issued under Act 30 of 1963. The said proceedings have been initiated between one Palanisamy Gounder as against the temple and others. The original authority has refused to issue patta in the name of Palanisamy Gounder and an appeal has been filed by him in C.M.A.No.238 of 1970 before the Minor Inam Tribunal, Coimbatore, and the same was allowed on 16.09.1971 and has also directed to issue patta to the appellant under Section 9(1)(i) of the Act in respect of survey No.133/B. This said order has not been challenged so far. Now it is the contention of the temple that they had taken steps to establish the title before the Civil Court. Mere filing of the suit at this stage will not confer title unless title has been established by the temple. In view of the above, this Court is of the view that as the petitioner is having a better title, his rights already conferred under the relevant law relate to inam property. Therefore, he cannot be prevented from enjoying the property at present. As on today, the title is not vested with the temple. Be that as it may, it is relevant to note that the Division Bench of this Court in ***Sudha Ravikumar v The Special Commissioner(AIR 2017 Mad 203)***, held as follows:

“The registering authority is not bestowed with any quasi-judicial function to hold a roving enquiry in respect of the title to the property. But



he has to hold a summary enquiry for the limited purpose of satisfying himself that the document deserves to be registered. Such enquiry is neither judicial nor quasi-judicial.”

8.Following the same, this Court in ***Subramani Vs. 1.The Sub-Registrar, Office of the Sub-Registrar, Rasipuram. 2. The Inspector General of Registration, Chennai***, has held as follows:

20. It is relevant to note that many registration has been refused citing Section 22-A on the only ground that some requests are made by Hindu Religious and Charitable Endowments Board or the Waqf Board. It is relevant to note that the Division Bench of this Court in the case of Sudha Ravikumar v The Special Commissioner reported in AIR 2017 Mad 203, wherein, it is held as follows:

“the registering authority is not bestowed with any quasi-judicial function to hold a roving enquiry in respect of the title to the property. But he has to hold a summary enquiry for the limited purpose of satisfying himself that the document deserves to be registered. Such enquiry is neither judicial nor quasi-judicial.”

21. Similarly, this Court in the case of D. Kalaiyarasan v Inspector General reported in (2018 SCC Online Mad 7224), it was held that unless and until the authority has clinching materials to show that the property belonged to the religious institution, the registration cannot be refused. Also, this Court in the case of G.Rajasulochana v Inspector General made in W.P 29706 of 2024 dated 16.04.2024, it was observed as under:

“If there is a serious dispute on the title to the land, such questions cannot be decided by the Registrar at the stage of registering a document since he is only



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conducting a limited summary enquiry.”

22. Therefore, this Court is of the view that merely on the basis of some letters without production of title deed clinchingly establish the title of the Waqf Board and religious institutions mere citing some objections in the form of letters, document cannot be refused to be registered.

9. Considering the above, as the title is not in favour of the temple at present, the refusal slip issued by the first respondent dated 21.02.2024 refusing to register the sale deed dated 07.11.2023 is set aside and the fourth respondent is directed to register the sale deed dated 07.11.2023 within a period of two months from the date of receipt of a copy of this order. It is well open to the fifth respondent to establish the title in an appropriate manner. Even if the title is established, they can very well take action for retrieving the property by invoking provisions under the HR & CE Act. Mere registration in favour of the third parties is not a bar for retrieving the property, provided, the title is conclusively established in an appropriate manner and not by giving just a letter to the registration authorities.

10. With the above directions, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
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Neutral Citation : Yes/No

To

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Hindu Religious and Charitable
Endowments Department, Chennai-600 034.
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N. SATHISH KUMAR, J.

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