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WP.No.13006 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.13006 of 2024

V.Sathiskumar

.. Petitioner

Versus

1. The Sub – Registrar,
Registrar's Office,
24FC+W5W, Coimbatore Road,
Sulur, Tamil Nadu 641402.

2.The Joint Commissioner,
Hindu Religious & Charitable,
Endowments Department,
Coimbatore.

3.The Executive Officer,
Arulmigu Mandhiragiri Velayudhaswamy Tirukoil,
Thenseri Malai, Sulur District,
Coimbatore.

.. 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 on the file of the 1st respondent in Refusal No. RFL/ Sulur/ 9/ 2024, dated 10.04.2024 and to quash the same as illegal unconstitutional and without jurisdiction and to further direct the 1st respondent to register the sale deed



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dated 10.04.2024 in respect of old survey No. 170/1, New survey No. 170/8

admeasuring 1200 sq.ft Bogampatti Village Sulur Coimbatore.

For Petitioner : Mr.V.Raghavachari, Senior Counsel
for V.Srimathi

For Respondents : Mr.B.Vijay for R1
Additional Government Pleader

: Mr.K.Karthikeyan for R2 & R3
Government Advocate.

ORDER

Challenge has been made to the refusal slip issued by the first respondent refusing to register the sale deed dated 10.04.2024 on the ground that the temple authorities has issued notice stating that the property belong to the HR & CE Department.

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

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

4.It is the contention of the learned counsel for the petitioner that the property all along has been a separate property. Even the provisions under the Act 26 of 1963 had reached finality many decades ago. Thereafter, the



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property had been dealt by the individual and several alienations also took place. All the revenue records stands in the name of the parties. When the documents were presented for registration, at this stage, merely on the basis of some letter addressed by the authorities, the registration has been refused. Hence this writ petition.

5.The learned counsel appearing for the HR & CE Department, on instructions, submitted that though patta had been issued to the individual, the same had been issued without proper enquiry. Now the temple is taking steps to retrieve the property from the third parties.

6.It is relevant to note that the very reply and the instructions submitted by the learned counsel appearing for the HR & CE Department indicates that the patta has been issued under Act 30 of 1963 long back and the same has not been challenged so far. Now the instructions reveal that still they have not taken any steps. It also further reveals that they only intend to take steps to retrieve the property. Therefore, 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 the case of *Sudha Ravikumar v The Special Commissioner* reported in *AIR 2017 Mad 203*, held as follows:



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“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.”

7.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-



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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 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.



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9. With the above directions, this writ petition stands allowed. No costs.

Consequently, connected miscellaneous petition, if any, is closed.

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Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No



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N. SATHISH KUMAR, J.

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