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W.P.No.14637 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2024

CORAM

THE HONOURABLE Mr.JUSTICE N.SATHISH KUMAR

W.P.No.14637 of 2024

V.Sathishkumar

.. Petitioner

Vs

1.The Sub Registrar
Registrar's Office
24FC+W5W, Coimbatore Road
Sulur, Tamil Nadu 641 402

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

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

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records on the file of the 1st respondent in refusal No.RFL/Sulur/8/2024 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 dated 10.04.2024, in respect of survey No.170/2C1A2B admeasuring 1200 sq.ft., Bogampatti Village, Sulur, Coimbatore.



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For Petitioner : Mr.V.Srimathi
For R1 : Mr.L.S.M.Hasan Fizal
Additional Government Pleader
For R2 & R3 : Mr.K.Karthikeyan
Government Advocate

ORDER

Challenge has been made to the refusal slip issued by the 1st 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 property had been dealt with by the individual and several



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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 *Sudha Ravikumar v The Special Commissioner (AIR 2017 Mad 203)*, held as follows:

“the registering authority is not bestowed with any



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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. The Sub Registrar, Rasipuram and Another (W.P.No.11056 of 2024 decided on 26.04.2024)***, 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. Kalaiyaran 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



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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.

8. Considering the above, as the title is not in favour of the temple at present, merely on the ground that the temple may take action to retrieve the property in future may not be a ground to refuse the registration at present. Therefore, the refusal slip issued by the 1st respondent refusing to register the sale deed dated 10.04.2024 is set aside. The 1st respondent is directed to register the sale deed dated 10.04.2024 and it is upto the HR & CE Department to establish the title in an appropriate manner. If the title is established, the property can be retrieved at any time. 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.

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

07.06.2024

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Neutral Citation : Yes/No



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