



W.A.No.2168 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.A.No.2168 of 2023

Sundeep Devarajan

... Appellant

Vs.

1.The District Registrar,
Administration,
Chengalpattu.

2.Nemili Arulmigu Alavanthar Naicker Charity,
Represented by its Executive Officer,
Mammalapuram,
Thirukazhikundram Taluk,
Chengalpet District – 603 104.

3.The Tahsildar,
Thiruporur.

4.The District Revenue Officer,
Chengalpattu.

... Respondents

*[R3 and R4 are impleaded vide order of Court
dated 06.06.2024 in W.A.No.2168 of 2023]*



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Prayer:- Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 04.07.2023 in W.P.No.19815 of 2023 on the file of this Court.

For Appellant : Mr.Sengottuvel
for M/s.K.Indupriya

For R1 : Mr.B.Vijay
Additional Government Pleader

For R2 : Mr.S.Ravichandran
Additional Government Pleader

For R3 and R4 : No appearance

J U D G M E N T

(Judgment was delivered by **S.S. SUNDAR, J.**)

The above Writ Appeal is directed against the order of the learned Single Judge of this Court, dated 04.07.2023, made in W.P.No.19815 of 2023, dismissing the writ petition filed by the appellant to quash the order passed by the 1st respondent dated 09.06.2023 and to direct the 1st respondent to reconsider the appeal filed by the appellant along with the additional statements as well the supporting documents filed by the



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appellant before the 1st respondent.

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2. Brief facts that are necessary for the disposal of this Writ Appeal are as follows :

2.1. The appellant herein entered into an agreement of sale dated 05.12.2019 with one Mrs.S.Renukadevi in respect of an extent of 10.3 Acres in S.No.168/3E1A1A1C2A in Pattipulam Village, Thiruporur Taluk, Chengalpeta District. Following the agreement, Mrs.S.Renukadevi, along with her husband and children, executed a sale deed dated 14.07.2021 for the entire extent for a valuable consideration. When the document was presented for registration, the Registering Authority kept the document pending only on the ground that there is a claim made by Nemili Arulmigu Alavanthar Naicker Charity Trust, the 2nd respondent herein.

2.2. Hence, the appellant filed a writ petition in W.P.No.15377 of 2021 praying for issuance of a Writ of Mandamus to admit the sale deed for registration. A learned Single Judge of this Court, by order dated 26.07.2021, directed the Sub-Registrar to conduct an enquiry, after issuing notice to the petitioner as well the Commissioner, HR & CE Department,



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and affording them an opportunity of hearing and then to pass suitable orders.

2.3. Thereafter, the Sub-Registrar, by proceedings dated 21.02.2022, refused to register the document, however, giving liberty to the appellant to file an appeal before the District Registrar.

2.4. The appellant preferred an appeal before the District Registrar, the 1st respondent herein. When the appeal was pending before the 1st respondent, the appellant herein filed another writ petition in W.P.No.1463 of 2023 for issuance of a Writ of Mandamus directing the District Registrar to consider the appeal preferred by the appellant and pass orders setting aside the impugned Registration Refusal Order. In the said writ petition, a learned Single Judge of this Court, taking note of the contention of the writ petitioner that the subject matter of the proposed sale is not the property of the religious institution, gave direction to the 1st respondent to dispose of the appeal within a stipulated time by order dated 23.01.2023.

2.5. Pursuant to the order of this Court in the writ petition, the 1st respondent, by proceedings dated 09.06.2023, confirmed the order of the Sub-Registrar refusing to register the document, mainly on the ground that



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the name of the appellant's vendor being shown only as a joint pattadhar as per the joint patta issued by the Revenue Department, in respect of a larger extent, in the absence of separate patta in favour of the appellant's vendor, especially in the light of the objection raised by Nemili Arulmigu Alavanthar Naicker Charity Trust, the sale deed executed by S.Renukadevi and others cannot be registered. Since the order is passed under Section 76 of the Registration Act, the 1st respondent gave liberty to the appellant to file a Civil Suit to establish his title.

2.6. Aggrieved by the order of the District Registrar dated 09.06.2023, the appellant herein preferred a writ petition in W.P.No.19815 of 2023. A learned Single Judge of this Court, having regard to the alternative remedy available to the appellant to approach the Civil Court as against the order refusing to register the document in terms of Section 76 of the Registration Act, dismissed the writ petition by order dated 04.07.2023.

2.7. The learned Single Judge therefore dismissed the writ petition only on the ground that the appellant has an effective alternative remedy of filing a suit under Section 77 of Registration Act as against the order of District Registrar under Section 76 of the Act. Considering the scope of



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Section 77 of the Act, the learned Single Judge found that the parties have to approach the Civil Court for effective adjudication of the disputes between the parties.

2.8. Aggrieved by the same, the above Writ Appeal is preferred by the writ petitioner.

3. Learned counsel appearing for the appellant produced before this Court several documents to show that the appellant's vendor had title to an extent of about 21 Acres in S.No.168/3E1A1A1C2A in Nemili, Pattipulam Village, Thiruporur Taluk, Chengalpet District. The learned counsel for the appellant, in his attempt to establish title in respect of the property, traced title from one Kannu Naicker, as under :

- (a) It is not in dispute that Kannu Naicker is one of the pattadhars as per the Survey Resettlement Register in respect of S.No.168.
- (b) Kannu Naicker died leaving behind his son K.Vedhagiri Naicker.
- (c) After the demise of Vedhagiri Naicker, portion of the land namely an extent of 12.40 Acres came to the son of Vedhagiri Naicker by name V.Krishtappa Naicker. Similar extent of land was given to the share



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of one V.Balakrishna Naicker, another son of Vedhagiri Naicker.

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(d) V.Krishtappa Naicker sold an extent of 1 Acre out of 12.40 Acres in S.No.168/Part to one Raghava Naicker as per the sale deed dated 02.10.1953 vide Doc.No.1169 of 1953.

(e) The Settlement Tahsildar, Madras, in his order dated 14.09.1966, confirmed the title to the land in favour of V.Krishtappa Naicker when a rival claim was made. It is also stated by the appellant that, during sub-division and mutation of Revenue records, Patta No.27 was issued in favour of V.Krishtappa Naicker by proceedings of Tahsildar, Chengalpet, dated 07.03.1979, in respect of S.No.168/3E1 measuring an extent of 11.40 Acres.

(f) It is admitted by the appellant that V.Krishtappa Naicker along with his daughter Renukadevi sold an extent of 1.10 Acres in S.No.168/3E1A1 to one K.Sivaji and others by a sale deed dated 25.03.1985.

(g) After the sale, V.Krishtappa Naicker was in possession and enjoyment of 10.30 Acres of land comprised in S.No.168/3E1A1.

(h) It is stated by the appellant that V.Krishtappa Naicker executed a



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registered Will dated 15.11.1993 bequeathing his entire holding namely an extent of 10.30 Acres comprised in S.No.168/Part along with two other lands in favour of his daughter by name S.Renuka Devi.

- (i) Since V.Krishtappa Naicker died on 29.12.1993 leaving behind his wife Kamatchiammal and S.Renukadevi as legal heirs, it is contended by the appellant that the wife and daughter of V.Krishtappa Naicker were in possession and enjoyment of the lands.
- (j) Subsequently, by a settlement deed dated 01.06.2011, the wife of V.Krishtappa Naicker conveyed absolute right in respect of the entire property in favour of her daughter namely S.Renukadevi. Thus, S.Renukadevi became the absolute owner of the land measuring an extent of 10.30 Acres comprised in S.No.168/3E1A1A1C2A.
- (k) The said S.Renukadevi, under registered Power of Attorney Deed dated 11.09.2017, appointed one P.Devarajan as her Power of Attorney Agent.
- (l) The said S.Renukadevi, through her Power of Attorney Agent by name P.Devarajan, executed a sale deed dated 14.07.2021 in favour of



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the appellant in respect of the entire extent of land. Thus, the appellant herein claims title to an extent of 10.30 Acres under registered instrument as stated *supra*.

However, when the document was presented for registration, the same was refused to be registered mainly on the ground of the claim made by the 2nd respondent. Since the 1st respondent has not stated any reason except the claim made by the religious institution over the property on the basis of previous Revenue records, the learned counsel for the appellant raised several grounds particularly pointing out the total non-application of mind as to the documents and proceedings by the statutory authorities acknowledging the title of the appellant.

4.Learned counsel for the appellant contended that the learned Single Judge failed to take note of the following documents :

- i. The statements of appellant and the supporting documents.
- ii. Additional statement filed by the appellant.
- iii. The representation of the appellant dated 22.12.2022 along with RTI application and information from the Joint Commissioner, HR & CE



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Department, Kanchipuram.

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iv. Order passed by this Court dated 23.01.2023 in W.P.No.1463 of 2023.

After referring to the documents of title and the scope of Civil Suit earlier filed by the 2nd respondent in O.S.No.107 of 1994, the learned counsel for the appellant submitted that the order impugned in the writ petition passed by the 1st respondent is not only in violation of principles of natural justice but also unsustainable being contrary to the settled principles of law. Narrating the fact that the Temple has admitted the proprietary ownership of 44 individuals in respect of an extent of 98 and odd Acres in S.No.168, the learned counsel submitted that the order of the learned Single Judge is erroneous.

5.Heard the learned counsel for the appellant and the learned Additional Government Pleader appearing for the 1st respondent and the learned Additional Government Pleader appearing for the 2nd respondent.

6.Initially when the appeal was heard on merits, this Court impleaded the respondents 3 and 4, the Revenue officials, as parties to this appeal and



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directed the respondents 3 and 4 to produce the Revenue records. From the Revenue records, it was demonstrated before this Court that the appellant's vendor by name S.Renukadevi is one of the joint pattadhars in respect of a vast extent of land. The fact that S.Renukadevi and her predecessor-in-interest owned more than 12 Acres in S.No.168 was never disputed by anyone.

7.The learned counsel for the appellant produced before this Court several documents to show that the appellant's predecessor-in-interest namely S.Renukadevi is the absolute owner of an extent of 10 Acres 30 Cents. From the judgment and decree in O.S.No.107 of 1994 and connected records, this Court finds that an extent of 19.71 Acres has been shown as land belonging to private persons in S.No.168, including the appellant's vendor. The learned Government Pleader was directed to produce the Revenue records to show how and on what basis, the 2nd respondent raised objections against the appellant to get the document registered. The learned Government Pleader, on instructions, admitted that an extent of 98.71 Acres in S.No.168/1 does not belong to Arulmigu Alavanthar Naicker Trust. The



sub-division proceedings was never challenged by the Temple at any point of time. The Survey and Land Records reflecting the name of joint pattadhars in respect of S.No.168 would clearly show that the 2nd respondent did not claim any title to a substantial portion in S.No.168 including the land which is sought to be sold in favour of the appellant. The Settlement Tahsildar, by proceedings dated 14.09.1966, rejected the rival claim made by another individual and found that the appellant's predecessor by name V.Krishtappa Naicker is entitled to an extent of 12.40 Acres as per the sale deed registered as Doc.No.1169 of 1953. The Patta Passbook has been issued to V.Krishtappa Naicker in the year 1974 in respect of an extent of 11.40 Acres in S.No.168/3E1. Similarly, the details of assessment and the Settlement Register is not in issue. S.Renukadevi obtained a Will from her father and on his death, the mother of S.Renukadevi, namely Kamatchiammal executed a settlement deed in respect of her share in favour of S.Renukadevi. The documents produced by the appellant show that the name of Kannu Naicker, father of Vedhagiri Naicker, from whom the appellant's vendor traced title to the property, is found in the Survey Resettlement Register prepared in the year 1911 in respect of S.No.168.



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8.The learned Additional Government Pleader appearing for the 2nd respondent produced before this Court the patta showing that the 2nd respondent has obtained patta in respect of substantial portion of the property in S.No.168 and that they have no dispute or claim with regard to an extent of 10.30 Acres claimed by the appellant as the property of his vendor.

9.The Civil Suit filed on behalf of the 2nd respondent would show that the Temple, the 2nd respondent, did not claim title to the entire extent in S.No.168 and admitted that a substantial extent of more than 98 Acres is owned by the private individuals. On perusal of the documents, this Court is convinced that there is no *bona fide* dispute as to the title of appellant's vendor in respect of an extent of 10.30 Acres in S.No.168.

10.The order of Sub-Registrar does not give any reason while refusing to register the document. The refusal according to the Sub-



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Registrar is on the basis of objection raised by the 2nd respondent. The 1st respondent has not assigned any other reason except the objection raised by the 2nd respondent and the fact that the name of the appellant's vendor has been shown as joint pattadhar and that there is no subdivision. This Court finds no material produced by any of the respondents to show that S.Renukadevi, the vendor of the appellant, is not the owner of the land comprised in S.No.168/3E1A1A1C2A measuring an extent of 10.30 Acres.

11.A Division Bench of this Court in ***Sudha Ravikumar and another v. The Special Commissioner and Commissioner, HR & CE, Chennai – 34 and others*** reported in ***2017 (4) MLJ 445***, has held as follows :

“25.In view of the above discussions, all the writ petitions are allowed and the impugned orders are set aside with the following directions:

- i. The registering authority before whom the document has been presented shall cause service of notice on the parties to the deeds and also to the objector / religious institution, hold summary enquiry, hear the parties and then either register or refuse to register the document by passing an order having regard to the relevant facts*



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as indicated above.

- ii. If the registering authority, refuses to register any document by accepting the objections raised under Section 22-A of the Registration Act, the aggrieved may file a statutory appeal under the Act.*
- iii. If the objections raised under Section 22-A of the Act by the religious institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a writ petition seeking cancellation of the registration or for any other relief or to approach the civil Court for declaration of the title and for other consequential reliefs.*
- iv. If the registering authority refuses to register the document acting on the objections raised by a religious institution under Section 22-A of the Registration Act, the parties to the deed will be at liberty to straightaway approach the Civil Court for declaration of title and other relief without availing the opportunity for filing a statutory appeal.*
- v. We further direct that if the deed has already been registered without there being any objection by the religious institution under Section 22-A of the Act, the document shall be returned to the parties concerned leaving it open for the religious institution to approach*



either the High Court under Article 226 of the Constitution of India or the Civil Court for appropriate relief as indicated above. At any rate, the registering authority shall not withhold the deed which has already been registered.

vi. Consequently the connected miscellaneous petitions are closed. No costs.”

12.Had the 1st respondent considered the documents, probably, he would have come to the conclusion that the objection raised by the 2nd respondent based on title is not valid and that it is out of collusion. Having regard to the voluminous documents and Revenue records produced by the appellant before the 1st respondent and before this Court, this Court is of the view that the appellant need not be driven to approach the Civil Court to establish his title which is evident on admitted facts. The Civil Court decree obtained on behalf of the 2nd respondent would indicate the title of others in respect of more than 98 Acres in S.No.168 and therefore, the objection raised by the 2nd respondent, which is due to circumspection, cannot be a reason to reject the document presented by the appellant for registration. This Court, while striking down Section 77-A of the



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Registration Act, has held that the the directions issued by the Division Bench of this Court in ***Sudha Ravikumar's case (supra)*** should be followed by the Registrar.

13.For all the above reasons, this Court is unable to sustain the order in the writ petition. Therefore, the order of the learned Single Judge, dated 04.07.2023, in W.P.No.19815 of 2023, is set aside and this Writ Appeal is allowed.

14.Since this Court has already held that the appellant's vendor has absolute title over the property in respect of which the sale deed had been executed in favour of the appellant, which is evident on the admitted facts, the order of the District Registrar, dated 09.06.2023, which is impugned in the writ petition, is quashed and the Sub-Registrar, Thiruporur, is directed to register the document of sale in favour of the appellant executed by S.Renukadevi and others, through their Power of Attorney Agent, which was refused to be registered earlier. In case the document had been returned to the appellant or his vendor earlier, the Sub-Registrar shall register the



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document which was kept pending vide Doc.No.467 of 2021 within a period of two weeks from the date of presentation of the document by the appellant's vendor or their authorised representatives in accordance with the provisions of the Registration Act. No costs.

(S.S.S.R., J.) (A.D.M.C., J.)
04.10.2024

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Internet : Yes

Index : Yes / No

Neutral Citation : Yes / No

To

- 1.The District Registrar,
Administration,
Chengalpattu.
- 2.The Executive Officer,
Nemili Arulmigu Alavanthar Naicker Charity,
Mammalapuram,
Thirukazhikundram Taluk,
Chengalpet District – 603 104.
- 3.The Tahsildar,
Thiruporur.
- 4.The District Revenue Officer,
Chengalpattu.



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