



W.A.No.2004 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.03.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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The Sub Registrar
Sowcarpet
Davidson Street
Chennai 600 001.

.. Appellant

Vs.

1. Hemalatha

2. The Executive Officer
Sri Chennai Malleeswara and
Chennakesavalu Devasthanam Temple
N.S.C. Bose Road
Chennai 600 001.

.. Respondents

Prayer: Appeal filed under Clause 15 of the Letters Patent against the order dated 17.11.2021 made in W.P.No.18540 of 2020.



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For the Appellant : Mr.A.Edwin Prabakar
State Government Pleader

For the Respondents : Mr.Vijayakrishnan
for Respondent-1

Mr.S.D.Ramalingam
for Respondent-2

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.A.Edwin Prabakar, learned State Government Pleader for the appellant, Mr.Vijayakrishnan, learned counsel for the first respondent and Mr.S.D.Ramalingam, learned counsel for the second respondent.

2. The present first respondent had presented a document for registration. However, the same is not being registered without no objection certificate from the temple authorities.

3. The leasehold rights of the temple property and the



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ownership rights of the superstructure were sought to be transferred by the instrument that was submitted for registration. It was observed by the registering authority that the leasehold rights of the property were also being transferred in the said indenture of the sale deed without no objection of the temple. The writ petitioner was directed to get no objection of the temple. The learned Single Judge, while allowing the writ petition, directed the writ petitioner to file an undertaking that the writ petitioner will not claim any leasehold rights in the land.

4. Learned counsel for the second respondent submits that the leasehold rights could never have been transferred. According to learned counsel for the first respondent/original writ petitioner, the writ petitioner is directed to give an undertaking that she will not claim the leasehold rights.

5. In case the instrument, i.e. indenture of sale is registered, then, the document would be contrary to the undertaking. Under



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the document submitted for registration, the lease of the land of the temple was the subject matter of assignment along with the ownership of the superstructure. Certainly, the leasehold rights of the land could not have been transferred without the consent of the temple. Giving an undertaking subsequently would not serve the purpose. The writ petitioner can withdraw the document, rectify the document and submit it without claiming leasehold rights in the property.

6. Learned counsel for the first respondent submits that the first respondent would rectify the instrument and would restrict the sale deed to the extent of superstructure only. The writ petitioner is entitled to withdraw the document in accordance with the provisions and may submit the document, either fresh one or by rectifying the said instrument, thereby claiming only sale and/or purchase of superstructure. If the said document is submitted, then, the respondent authority shall take steps to register it, in case it complies with all other statutory provisions.



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7. The writ appeal is, accordingly, partly allowed. There shall be no order as to costs. Consequently, C.M.P.No.17033 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No

Neutral Citation : Yes/No

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