



W.P.No.35798 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2024

CORAM

THE HON'BLE **MS.JUSTICE P.T.ASHA**

W.P.No.35798 of 2024

and

W.M.P.No.38667 of 2024

R.Eswaran

... Petitioner

Vs.

1. The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Tiruppur – 638 004,
Tiruppur District.

2. A/m.Visweswaraswamy Vishalakthiamman
Subramaniswamy Thirukovils,
Represented by its Executive Officer, Nallur,
Tiruppur District.

3. The Sub Registrar,
Sub Registrar Office, Nallur,
Tiruppur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned orders i) dated 11.10.2013 issued by the 2nd respondent and ii) dated 06.08.2024 Refusal Check Slip in RFL/Nallur_Tiruppur/53/2024 passed by the 3rd respondent, Quash the same and consequently direct the 3rd



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respondent to register the Settlement Deed dated 06.08.2024 executed by the petitioner in favour of his wife E.Vasanthi in respect of a house site No.15 measuring 2400 sq.ft., comprised in S.F.No.671/2A1A, Nallur Village, Tiruppur South Taluk, Tiruppur District.

For Petitioner : Mr.N.Mancharan
For R1 & R2 : Mr.N.R.R.Arun Natarajan
Special Government Pleader (HR & CE)
For R3 : M/s.C.Meera Arumugham
Additional Government Pleader

ORDER

Mr.N.R.R.Arun Natarajan, learned Special Government Pleader (HR & CE) takes notice on behalf of the 1st and 2nd Respondents. M/s.C.Meera Arumugham, learned Additional Government Pleader takes notice on behalf of the Respondent.

2. The above Writ Petition has been filed to quash the Impugned Order dated 11.10.2013 issued by the 2nd Respondent and the Refusal Check Slip dated 06.08.2024

3. The said lands were originally Devadayam Minor Inam Lands



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granted for Swayampaki Service to an extent of 5.61 Acres in S.F.Nos.671/1 and 671/2 at Nallur Village, Tiruppur South Taluk, Tiruppur District was owned by Narayanasamy Gounder. His son Palanisamy Gounder mortgaged his half of 5.61 Acres in S.F.Nos.671/1 and 671/2 in favour of Kumarasamy Gounder and Sivasubramaniam Chettiar under a registered Mortgage Deed dated 19.08.1928. The said Narayanasamy Gounder filed Insolvency Proceedings before the Sub Court, Coimbatore and the Official Receiver had taken over certain properties belonging to Narayanasamy Gounder and Palanisamy Gounder and brought them for public sale. Both of them were declared insolvents. The Sale Certificate was issued to Meenkashi Sundara Vilas Bank represented by T.M.Siva Subramanian Chettiar. By virtue of the Sale Deed dated 24.05.1959, Meenkashi Sundara Vilas Bank represented by T.M.Siva Subramanian Chettiar sold the property to one minor Karunakara Sivasubramaniam represented by his mother Ponnammal. The Partition Deed dated 14.12.1959 was entered into on which 'A' Schedule Property was allotted to Palanisamy Gounder and 'B' Schedule Property was allotted to Karunakara Sivasubramaniam. Meanwhile, proceedings under the Tamil Nadu Minor Inam Act was initiated by Settlement Tahsildar and ultimately the Settlement Tahsildar had passed an Order granting Patta under Section 8(2)(i)(b) for SF.No.671 measuring 5.61 Acre to K.N.P.Subramani.



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In the same proceedings Patta was granted to the 2nd Respondent Temple with reference to Survey No.489/3 measuring 1.11 Acres. The Fair Rent was also fixed at Rs.4,880/- payable in 20 yearly installments. The amount was also paid by the K.N.P.Subramani on 10.08.1978. Thereafter, he had sold the property to various persons. K.N.P.Subramani died on 12.10.1993 leaving behind his wife, son and daughter as his legal representative and the purchasers of the property had sold the property to Padmini Sivasubramaniam. Therefore, she became the owner of the property. She had developed an extent of 4 acres in S.F.No.671/1 and S.F.No.671/2 and converted them into a lay out after obtaining necessary plan approval. The Petitioner had purchased properties by virtue of two Sale Deeds dated 27.11.1995 and 21.12.1995. Nearly four decades after the Order had been passed by the Settlement Tahsildar, the 2nd Respondent has filed C.M.A.No.8 of 2014 before the Ld. Minor Inams Appellate Tribunal & Principal Subordinate Judge, Tiruppur challenging Order passed by the Settlement Tahsildar on 10.06.1968. The Petitioner has not been impleaded as a party to the proceedings therefore, he had impleaded himself in the said proceedings. Meanwhile, the Petitioner had executed a Settlement Deed in favour of his wife and presented the same for registration before the 3rd Respondent. A registration was refused on the ground that the 2nd Respondent had raised



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an objection. Aggrieved by the same the Petitioner has filed this Writ
Petition.

4. Heard the learned counsel on either side.

5. The 2nd Respondent has not challenged the Order of the Settlement Register passed as early as in the year 1968 and it is only now that steps have been taken to challenge the same that too over a period of 5 decades.

6. The 2nd Respondent has also not obtained any orders from the Civil Court prohibiting the registration. This Court while considering a similar matter in W.P.No.11473 of 2023 in the case of **V.A.Thirumagal vs. The Secretary to Government, Hindu Religious and Charitable Endowment Department, Tiruppur – 638 004, and others** has passed an Order on 26.07.2024. Relevant portion of the said Order reads as under:-

*“8. It is relevant to note that as far as registration is concerned, the title cannot be decided by the Sub Registrar. Rights of parties will be governed based on their title and the earlier documents, unless there is an Order from the competent Court. This aspect has been elaborately dealt by this Court in **Subramani vs. 1. The Sub-Registrar, Office of the Sub-Registrar, Rasipuram.***



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2. The Inspector General of Registration, Chennai [W.P.No.11056 of 2024, dated 26.04.2024]. It is to be noted that even issuance of the patta under the Act 30 of 1963 will not be a bar to the temple to file a suit to establish their right. In the event, they succeed, they can recover the property as per the Hindu Religious Charitable and Endowment Act. Though the Hindu Religious Charitable Endowment Department has not been put in notice in the proceedings of the year 2016, they were put on notice in the proceedings of the year 1971 which went against them. In such view of the matter, the documents presented by the petitioner cannot be refused to be registered citing their earlier letter, which has already been quashed by this Court in W.P.No.39123 of 2016.

9. Accordingly, this Writ Petition is allowed and the impugned proceedings of the third respondent dated 03.08.2021 is quashed and the fifth respondent is directed to register the documents whenever presented by the petitioner. No costs.”

7. The facts of the instant case are similar to the facts therein. Therefore, the Writ Petition is allowed in the light of Order passed by this Court in W.P.No.11473 of 2023. Accordingly, the impugned proceedings dated 11.10.2013 and 06.08.2024 are quashed and the 3rd Respondent is



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directed to register the Settlement Deed dated 06.08.2024 within a period of two (2) weeks from the date of receipt of a copy of this Order. No costs.

Consequently, connected Miscellaneous Petition is closed.

02.12.2024

Index : Yes/No
Speaking/Non-speaking Order
Neutral Citation : Yes/No
rgm

P.T.ASHA, J.

rgm

To

1. The Joint Commissioner,



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Hindu Religious and Charitable
Endowment Department,
Tiruppur – 638 004,
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2. A/m.Visweswaraswamy Vishalaktchiamman
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Represented by its Executive Officer, Nallur,
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