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WP.No.33033 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **04.07.2024**

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.33033 of 2022

N.Balusamy

.. Petitioner

Versus

1. The Sub Registrar,
Sub Registrar Office, Kangayam, Tiruppur District.

2. The Executive Officer,
A/m.Prasanna Venkataramaswamy Koil,
Hindu Religious and Charitable Endowment Department,
Kangayam, Tiruppur District. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus Calling for the records relating to the impugned order made in Na.Ka.No.140/ 2020 dated 05.08.2022 passed by the first respondent quash the same and consequently direct the first respondent to register the settlement deed dated 12.11.2021 (P8 /2022) executed by the petitioner in favour of his wife Tmt. Muthulakshmi and release the original document to the settlee.

For Petitioner : Mr.N.Manoharan

For Respondents : Mr.B.Vijay
Additional Government Pleader – 1

Mr.K.Karthikeyan, Government Advocate - R2



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ORDER

This Writ Petition has been filed to quash impugned order made in Na.Ka.No.140/ 2020 dated 05.08.2022 passed by the first respondent and consequently direct the first respondent to register the settlement deed dated 12.11.2021 (P8 /2022) executed by the petitioner in favour of his wife Tmt. Muthulakshmi and release the original document to the settlee.

2. Heard learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents and perused the materials available on record.

3. It is th case of the petitioner that the subject property to an extent of 1749 is the ancestral property of the petitioner and they are all along in possession and enjoyment of the property. While so, when the petitioner executed a settlement deed and presented the same for registration, the impugned Order came to be passed by first respondent refusing to register the document on the ground that it is a temple property. The said refusal has been challenged before this Court in a Writ Petition in W.P.No.223 of 2022 and this Court by an Order dated 07.01.2022 has set aside the refusal slip issued by he



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authorities and directed the first respondent to conduct enquiry and pass an Order after giving opportunity to the petitioner. Pursuant to the Order of this Court, the impugned Order has been passed, which has been put in challenge in the present Writ Petition.

4. It is the contention of the learned counsel for the petitioner that no documents whatsoever have been produced by the temple, despite opportunity given to produce the document to claim right over the property. However, the Sub Registrar simply relied upon the letter and onceagain rejected the request of the petitioner. Hence, it is his contention that when the temple is not in a position to establish right over the property, merely on the basis of a letter, refusal cannot be made.

5. Counter has been filed by the second respondent to the effect that the subject property in RS No.708/1 corresponding to old Survey No.1159/A to an extent of 6.75acres and another extent of 4.72 acres in surveyNo.159/B belong to the temple and patta has been issued in their name in settlement proceedings. Therefore, it is their contention that the temple is the owner of the property and 'A' Register also sand in the name of the temple.



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6. When this Court has directed the petitioner to produce the Settlement Order, the same has been produced only in respect of survey No.1159/B in respect of 4.72, in respect of which patta has been granted by the Settlement Officer under Act 30 of 1963. As far as the other survey No.1159/A, no document, whatsoever, has been produced before this Court. It is the contention of the learned counsel for the second respondent that the revenue records are also in the name of the temple.

7. It is relevant to note that the patta issued by the authorities indicate that apart from the temple, some other private individuals name also issued patta in the year 2008. The petitioner also produced a document of the year 1943 sale deed . Therefore in the absence of any Order to establish clinchingly that S.1159 also belong to the temple, mere letter would not establish its title. The Sub Registrar has simply refused to register the document merely on the basis of the letter issued by the temple. Therefore, when the temple is not in a position to produce any document to establish their title, this Court has to necessarily hold that the petitioner's ancestors have purchased the property in the year 1943 and patta has also been issued in their favour, the Order impugned cannot be sustained in the eye law. It is open to the second



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respondent to establish their title in a competent Civil Court and recover possession.

8. Accordingly, this Writ is allowed and the impugned Order of the first respondent dated 05.08.2022 is hereby quashed. Consequently, the first respondent is directed to register the settlement deed dated 12.11.2021 [P8/2022] within a period of two months from the date of receipt of a copy of this Order.

04.07.2024

vrc

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No

To,

1. The Sub Registrar,
Sub Registrar Office, Kangayam, Tiruppur District.
2. The Executive Officer,
A/m.Prasanna Venkataramaswamy Koil,
Hindu Religious and Charitable Endowment Department,
Kangayam, Tiruppur District.



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N. SATHISH KUMAR, J.

VRC

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