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WP.No.38505 of 2024

In the High Court of Judicature at Madras

Dated : 17.12.2024

Coram :

The Honourable Ms.Justice P.T.ASHA

Writ Petition No.38505 of 2024 &
WMP.No.41715 of 2024

A.R.Shanmugasundaram
(a) A.R.Shamugham

...Petitioner

Vs

1.The Joint Commissioner,
Hindu Religious & Charitable
Endowment Department,
Tirupur-638004. Tirupur
District.

2.Arulmigu Vishweswara Swamy,
Visalakshiamman, Subramania
Swamy Thirukoil, rep.by its
Executive Officer, Nallur,
Tiruppur Taluk, Tiruppur District.

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

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned orders (i) dated 20.6.2022 made in Na.Ka.No.10/2022 issued by the 2nd respondent and (ii) dated 11.11.2024 made in Na.Ka.No.364 passed by the 3rd respondent, by and which, respondents 1 to 3 have taken a decision not to entertain any documents for registration in respect of old



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S.F.No.292/1, new S.F.No.292/1B1B, Nallur Village, Tirupur South Taluk, Tiruppur District, quash the same consequently direct the 3rd respondent to entertain the document registrations in respect of old S.F.No.292/1, New S.F.No.292/1B1B, Nallur Village, Tirupur South Taluk, Tiruppur District for a total extent of 1.99 acres.

For Petitioner	:	Mr.V.P.Sengutuvel, SC for Mr.T.Balaji
For R1 & R2	:	Mr.N.R.R.Arun Natarajan, SGP
For R3	:	Mr.B.Vijay, AGP

ORDER

The petitioner seeks to quash the impugned orders (i) dated 20.6.2022 issued by the second respondent claiming that certain properties including old S.F.No.292/1, Nallur Village, Tirupur South Taluk, Tiruppur District belong to them and (ii) dated 11.11.2024 issued by the third respondent, by which, a decision has been taken not to entertain any document for registration in respect of old S.F.No. 292/1, new S.F.No.292/1B1B, Nallur Village, Tirupur South Taluk, Tiruppur District measuring acre 1.99 cents.

2. Heard the learned Senior Counsel appearing on behalf of the petitioner, the learned Special Government Pleader accepting notice for respondents 1 and 2 and the learned Additional Government Pleader accepting notice for the third respondent.



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3. The case of the petitioner is as follows :

(i) The property in S.No.292/1 totally measuring 4.56 acres at Nallur Village, Tirupur Taluk and District was originally owned by one Mr.Shanmuga Thevar, who got it by way of a partition deed dated 30.7.1965 registered as doc.No.1900 of 1965 on the file of the Sub-Registrar, Tirupur. The said Mr.Shanmuga Thevar sold the said property to one Mr.Ponnulinga Gounder vide sale deed dated 30.3.1967 registered as doc.No.814 of 1967 and he was in possession and enjoyment of the same.

(ii) At that point of time, proceedings were initiated by the Settlement Tahsildar under the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act. In that, the Settlement Tahsildar-II, Gobichettipalayam conducted a detailed inquiry and by order dated 17.11.1968, patta was granted to the second respondent temple. Aggrieved by the said proceedings dated 17.11.1968, the said Mr.Ponnulinga Gounder preferred an appeal before the Minor Inams Tribunal, Coimbatore by filing C.M.A.No.147 of 1969. Ultimately, the said appeal was allowed on 18.1.1971 and the matter was remitted back to the Settlement Tahsildar-II, Gobi to conduct a fresh inquiry.

(iii) After remand, the Settlement Tahsildar-II, Coimbatore, by order dated 23.8.1971, granted an unconditional patta to the said Mr.Ponnulinga Gounder and cancelled the ryotwari patta granted to



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the second respondent temple. After issuance of the unconditional patta, the said Mr.Ponnulinga Gounder was in possession and enjoyment of the said property as the absolute owner. Meanwhile, O.S.No.71 of 1992 seeking partition and separate possession was instituted on the file of the Sub-Court, Tirupur by one Mr.P.Venkatasubramaniam, S/O Ponnulinga Gounder against the said Mr.Ponnulinga Gounder and four others. In the said suit, a compromise decree was passed on 29.4.1992 in favour of the said Mr.P.Venkatasubramaniam in respect of the said property.

(iv) On 15.7.2002, the said Mr.P.Venkatasubramaniam for himself and on behalf of his two minor children, sold the said property measuring 0.99 1/ cents in favour of the petitioner and it was registered as doc.No.1830 of 2002 on the file of the third respondent. On the same day i. e. 15.7.2022, the said Mr.P. Venkatasubramaniam for himself and on behalf of his two minor children, sold another extent of 0.99 1/2 cents in favour of one Mr.R.Balasubramaniam. who is none other than the brother of the petitioner, vide doc.No.1829 of 2002 on the file of the third respondent.

(v) At a later point in time, the said Mr.Balasubramaniam executed a settlement deed subsequently in favour of the petitioner on 06.8.2009 registered as doc.No.2806 of 2009 on the file of the third respondent and thereby the petitioner became entitled to acres 1.99



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cents. The revenue records were also mutated in the name of the petitioner and patta No.5499 was granted to him. The petitioner also exercised his rights as absolute owner by mortgaging the said properties to the Union Bank of India on 07.6.2010, availed loan and the memorandum of deposit of title deeds were registered on the file of the third respondent.

(vi) The second respondent was stated to have filed an objection petition in 2013. After discharging the earlier mortgage debt, once again, the petitioner mortgaged the said properties on 04.5.2023 and obtained loan from the Union Bank of India. The second respondent raised their objections claiming that the subject properties belong to the second respondent temple. Pursuant to that, the third respondent conducted an inquiry, before whom, the petitioner submitted all the documents. After conducting a detailed inquiry, vide proceedings dated 06.4.2023, the third respondent held that as per the revenue records and other documents, the subject properties belong to the petitioner and that the second respondent had no right over the same.

(vii) In May 2024, the petitioner again mortgaged the subject properties with the Union Bank of India and when the memorandum of deposit of title deeds was presented before the third respondent for registration, despite holding that the subject properties absolutely belong to the petitioner, the third respondent refused to register the



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same. Thus aggrieved, the writ petition has been filed.
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4. From the above narration of facts, it is clear that vide proceedings dated 06.4.2023, the third respondent himself held that the subject properties belong to the petitioner and the said proceedings dated 06.4.2023 have not been challenged by the second respondent before a court of law. That apart, several earlier memoranda of deposit of title deeds were registered in respect of the subject properties before the third respondent. In the light of the above, the refusal on the part of the third respondent every time to register the document presented by the petitioner is totally misconceived.

5. Accordingly, the writ petition is allowed, the impugned proceedings (i) dated 20.6.2022 issued by the 2nd respondent and (ii) dated 11.11.2024 issued by the 3rd respondent are quashed and the third respondent is directed to register the document presented by the petitioner within a period of two weeks from the date of its representation. No costs. Consequently, the connected WMP is closed.

17.12.2024

RS



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P.T.ASHA,J

RS

To

- 1.The Joint Commissioner,
Hindu Religious & Charitable
Endowment Department,
Tirupur-638004. Tirupur
District.
- 2.The Executive Officer,
Arulmigu Vishweswara Swamy,
Visalakshiamman, Subramania
Swamy Thirukoil, Nallur, Tiruppur
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- 3.The Sub-Registrar,
Sub-Registrar Office, Nallur,
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