



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Tuesday, the Fifth day of November Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH

AND

The Hon`ble Dr.Justice A.D.MARIA CLETE

WA(MD). Nos.203, 241 & 332 of 2024

Arulmigu Kallalagar Thirukoil
Through its Deputy Commissioner/
Executive Officer, Alagarkovil,
Melur Taluk,Madurai District.

... Appellant in all WAs

Vs

1 Dinakaran

2 The Tahsildar,
Madurai East Taluk, Madurai District.

3 The Sub Registrar,
Thamaraipatti @ Chittampatti,
Madurai District.

4 The Additional Chief Secretary
And Commissioner of Land Administration
Chepauk, Chennai.

...Respondents in WA(MD)No.203/24

1 The Commissioner,
The Office of the Commissioner of
Land Administation
Chepauk, Chennai - 600 005.

2 The District Revenue Officer
Madurai District, Madurai.

3 The Revenue Divisional Office,
Melur, Madurai District.



4 The Tahsildar,
Melur Taluk, Madurai District.

5 The Sub Registrar,
Thamaraipatti Sub-Registrar Office,
Melur Main Road, Madurai.

6 Smt.Alamelu Mangai,
D/o.Periaswamy Ambalam Trustee,
Kallanthiri Ki Mu.Kalluvedi Karuppanan
Ambalam Mandagapadi Thaneer Pandal
Dharaman Trust, Kallanthiri,
Alagarkovil via, Madurai North Taluk,
Madurai District.

7 M.Dinakaran

...Respondents in WA(MD)No.241/24

1 The Commissioner,
The Office of the Commissioner Of
Land Administration, Chepauk, Chennai 600 005.

2 The District Revenue Officer,
Madurai District, Madurai.

3 The Revenue Divisional Officer,
Melur, Madurai District.

4 The Tahsildar,
Melur Taluk, Madurai District.

5 The Sub Registrar,
Thamaraipatti Sub Registrar Office,
Melur Main Road, Madurai.

6 Alamelu Mangai
D/o. Periaswamy Ambalam Trustee
Kallanthiri Ki.Mu. Kalluvedi Karuppanan
Ambalam Mandagapadi Thaneer Pandal Dharmam



Trust Kallanthiri, Alagarkovil via,
Madurai North Taluk, Madurai District.

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7 M.Dinakaran,

8 R.Madhumitha,

9 J.S.Amarnath

10 S.Nirmala

11 R.Devarajan,

12 F.Anulamary

13 S.John Peter

14 J.Punitha

15 M.Arockiyam

16 D.Rohini,

17 S.Vanitha,

18 K.Sundararaman

19 P.Sundari

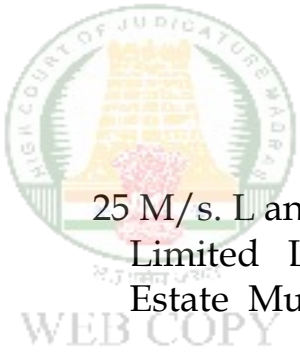
20 G.M.Palsanthiyagu

21 S.A.Jeromeraj

22 K.Thirumurugan,

23 T.J.Gnaneeswari

24 R.Savitha



25 M/s. L and T Housing Finance
Limited L and T House N.M.Marg Ballard
Estate Mumbai-400 001.

...Respondents in WA(MD)No.332/24

Prayer in WA(MD). No.203 of 2024:-

Writ Appeal filed under Clause 15 of Letters patent, prayed that this Hon'ble Court to set aside the order dated 06.12.2023 passed in the WP(MD)No.14929 of 2020 on the file of this Court in respect of Survey No.65/1-B measuring 3.18.5 Hectares in Poikaraipatty Village, Madurai East Taluk, Madurai District.

Prayer in WP(MD). 14929/ 2020 :-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court. to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 2nd respondent in No.73/2019 dt. 26.08.2019 and quash the same and direct the 2nd respondent to register the sale deeds presented by the petitioner in respect of S.No. 65/1B measuring 3.18.5 Hectares of Poikaraipatti Village, Madurai East Taluk, Madurai District.

Prayer WA(MD). No.241 of 2024:-

Writ Appeal filed under Clause 15 of Letters Patent, praying this Hon'ble Court to set aside the order dated 06.12.2023 passed in the WP(MD)No.15725 of 2021 on the file of this Court in respect of Survey No.65/1-B measuring 3.18.5 Hectares in Poikaraipatty Village, Madurai East Taluk, Madurai District.

Prayer in WP(MD). 15725/ 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of certiorarified mandamus to call for the impugned Sale deed dated 01.10.2013, executed by the 6th respondent in favour of the 7th respondent, on the file of the 5th respondent, under Document No.2277 of 2013 pertaining to encumbrance of the endowment property of the petitioner temple under S.No.65/1B, Poyyakaraipatti, Madurai North Taluk, Madurai and to call for order passed by the 1st respondent under proceeding No.D.Dis K4/RP43/2002 (7854/02) dated 17.04.2014, pertaining to retaining the Patta in the name of 6th respondent relating to the endowment property under S.No.65/1B Poyyakaraipatti, Madurai North Taluk, Madurai and to quash the said Sale deed and to quash the



2nd impugned order as as far as retaining the patta to the property under S.No.65/1B, Poyyakaraipatti, Madurai North Taluk, Madurai in the name of the 6th Respondent and direct the respondents 1 to 4 grant patta to the property under S.No.65/1B,Poyyakaraipatti, Madurai North Taluk, Madurai, in favour of the Petitioner Temple.

Prayer in WA(MD)No.332/24:-

Writ Appeal filed under Clause 15 of Letters Patent, praying this Hon'ble Court to set aside the order dated 06.12.2023 made in the WP(MD)No.15513 of 2021 on the file of this Court in respect of Survey No.65/1-B measuring 3.18.5 Hectares in Poikaraipatty Village, Madurai East Taluk, Madurai District..

Prayer in W.P. 15513 of 2021:-

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARI or any other appropriate writ or direction, to call for the Impugned Sale deed on the file of the 5th Respondent dated 13.04.2016 under Doc.No.904 of 2016 executed by the 7th Respondent in favour of the 8th Respondent, Impugned Sale deed on the file of the 5th Respondent dated 13.04.2016 under Doc.No.905 of 2016 executed by the 7th Respondent in favour of the 8th Respondent, Impugned Sale deed on the file of the 5th Respondent dated 13.04.2016 under Doc.No.906 of 2016 executed by the 7th Respondent in favour of the 9th Respondent, Impugned Sale deed on the file of the 5th Respondent dated 13.04.2016 under Doc.No.907 of 2016 executed by the 7th Respondent in favour of the 10th respondent, impugned sale deed on the file of 5th respondent dated 13.04.2016 under Doc.No.908 of 2016 executed by the 7th Respondent in favour of the 11th respondent, impugned sale deed on the file of the 5th respondent 13.04.2016 under Doc.No.909 of 2016 executed by the 7th Respondent in favour of the 12th respondent, impugned sale deed on the file of the 5th respondent 13.04.2016 Doc.No.910 of 2016 executed by the 7th Respondent in favour of the respondents 13,14 and 15, impugned sale deed on the file of the 5th respondent 12.05.2016 under Doc.No.912 of 2016 executed by the 7th Respondent in favour of the 16th respondent, impugned sale deed on the file of the 5th respondent 12.05.2016 under Doc.No.913 of 2016 executed by the 7th Respondent in favour of the 17th respondent, impugned sale deed on the file of the 5th respondent 12.05.2016 under Doc.No.914 of 2016 executed by the 7th Respondent in favour of the 18th respondent, impugned sale deed on the file of the 5th respondent 12.05.2016 under Doc.No.915 of 2016 executed by the 7th Respondent in favour of the 19th respondent, impugned sale deed on the file of the



5th respondent 12.05.2016 under Doc.No.916 of 2016 executed by the 7th Respondent in favour of the 20th respondent, impugned sale deed on the file of the 5th respondent 19.05.2016 under Doc.No.919 of 2016 executed by the 7th Respondent in favour of the 20th respondent, impugned sale deed on the file of the 5th respondent 19.05.2016 under Doc.No.920 of 2016 executed by the 7th Respondent in favour of the 21st respondent, impugned sale deed on the file of the 5th respondent 15.06.2016 under Doc.No.954 of 2016 executed by the 7th Respondent in favour of the 22nd respondent, impugned sale deed on the file of the 5th respondent 25.06.2016 under Doc.No.1221 of 2016 executed by the 7th Respondent in favour of the 23rd respondent, impugned Gift Settlement deed on the file of the 5th respondent 09.08.2016 under Doc.No.1328 of 2016 executed by the 8th Respondent in favour of the 24th respondent, impugned Memorandum of Deposit of Title deed on the file of the 5th respondent 07.10.2016 under Doc.No.1626 of 2016 executed by the 18th Respondent in favour of the 25th respondent, pertaining to encumbrance of the endowment property of the petitioner Temple under S.No.65/1B, Poyyakaraipatti, Madurai North Taluk, Madurai and to quash the said impugned sale document and for consequential order.

ORDER:- These Appeals coming on for orders on this day and upon perusing the Memorandum of grounds of Appeals filed thereof and upon hearing the arguments of Thiru.S.Manohar, Advocate for the Appellants and Thiru.N.L.Rajah, Senior Counsel for Mrs.K.M.Priscilla Jancy, Advocate for 1st Respondent in WA(MD) No.203/2024 and 7th Respondent in WA(MD)Nos.241 & 332/2024, Thiru.S.P.Maharajan, Special Government Pleader for 2nd to 4th Respondents in WA (MD)No.203/2024, 1st to 5th Respondents in WA(MD)Nos.241 & 332/2024 and Mr.Ramasundar Vijaya Raj, Advocate for the 6th Respondent in WA(MD)Nos.241 & 332/2024, this Court made the following order:

To the challenge made against the common order passed in WP(MD) No.14929/2020 etc., batch, dated 06.12.2023, a Coordinate Bench of this Court had passed a final order on 08.08.2024 in the following manner:

“All these writ appeals have been filed challenging the common order dated 06.12.2023 made in W.P.(MD)No.14929 of 2020, W.P.

(MD)No.15513 of 2021 and 15725 of 2021.



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2.1. The prayer of the writ petition in W.P.(MD)No.14929 of 2020 is as follows:

To issue of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 2nd respondent in No.73/2019, dated 26.08.2019, quash the same and direct the 2nd respondent to register the sale deeds presented by the petitioner in respect of Survey No.65/1B, measuring 3.18.5 Hectares of Poikaraipatti Village, Madurai East Taluk, Madurai District.

2.2. The prayer of the writ petition in W.P.(MD)No.15513 of 2021 is as follows:

To issue a Writ of Certiorari, to call for the impugned sale deed on the file of the 5th respondent dated 13.04.2016 under Doc.No.904 of 2016 executed by the 7th Respondent in favour of the 8th Respondent, impugned sale deed on the file of the 5th respondent dated 13.04.2016 under Doc.No.905 of 2016 executed by the 7th respondent in favour of the 8th Respondent, impugned sale deed on the file of the 5th respondent dated 13.04.2016 under Doc.No.906 of 2016 executed by the 7th respondent in favour of the 9th respondent, impugned sale deed on the file of the 5th respondent dated 13.04.2016 under Doc.No.907 of 2016 executed by the 7th respondent in



favour of the 10th respondent, impugned sale deed on the file of the 5th respondent dated 13.04.2016 under Doc.No.908 of 2016 executed by the 7th respondent in favour of the 11th respondent, impugned sale deed on the file of the 5th respondent dated 13.04.2016 under Doc.No.909 of 2016 executed by the 7th respondent in favour of the 12th Respondent, impugned sale deed on the file of the 5th respondent dated 13.04.2016 under Doc. No.910 of 2016 executed by the 7th respondent in favour of the respondents 13, 14 and 15, impugned sale deed on the file of the 5th respondent dated 12.05.2016 under Doc.No.912 of 2016 executed by the 7th respondent in favour of the 16th respondent, impugned sale deed on the file of the 5th respondent dated 12.05.2016 under Doc.No.913 of 2016 executed by the 7th respondent in favour of the 17th respondent, impugned sale deed on the file of the 5th respondent dated 12.05.2016 under Doc.No.914 of 2016 executed by the 7th respondent in favour of the 18th respondent, impugned sale deed on the file of the 5th respondent dated 12.05.2016 under Doc.No.915 of 2016 executed by the 7th respondent in favour of the 19th respondent, impugned sale deed on the file of the 5th respondent dated 12.05.2016 under Doc.No.916 of 2016 executed by the 7th respondent in favour of the 20th respondent, impugned sale deed on the file of the 5th respondent dated 19.05.2016 under Doc.No.919 of 2016 executed by the 7th respondent in favour of the 20th



respondent, impugned sale deed on the file of the 5th respondent dated 19.05.2016 under Doc.No.920 of 2016 executed by the 7th respondent in favour of the 21st respondent, impugned sale deed on the file of the 5th respondent dated 15.06.2016 under Doc.No.954 of 2016 executed by the 7th respondent in favour of the 22nd respondent, impugned sale deed on the file of the 5th respondent dated 25.06.2016 under Doc.No.1221 of 2016 executed by the 7th respondent in favour of the 23rd respondent, impugned Gift Settlement deed on the file of the 5th respondent dated 09.08.2016 under Doc.No.1328 of 2016 executed by the 8th respondent in favour of the 24th respondent and Impugned Memorandum of Deposit of Title Deeds on the file of the 5th respondent dated 07.10.2016 under Doc. No.1626 of 2016 executed by the 18th respondent in favour of the 25th respondent, pertaining to encumbrance of the endowment property of the petitioner temple under S. No. 65/1B, Poikaraipatti, Madurai North Taluk, Madurai and to quash the said impugned documents.

2.3. The prayer of the writ petition in W.P.(MD)No.15725 of 2021 is as follows:

To issue a Writ of Certiorarified Mandamus, to call for the impugned Sale deed dated 01.10.2013, executed by the 6th respondent in favour of the 7th respondent, on the file of the 5th respondent, under Document No.2277 of



2013 pertaining to encumbrance of the endowment property of the petitioner Temple under S.No.65/1B, Poikaraipatti, Madurai North Taluk, Madurai and to call for order passed by the 1st respondent under proceeding No.D.Dis K4/RP43/2002 (7854/02) dated 17.04.2014, pertaining to retaining the Patta in the name of 6th respondent relating to the endowment property under S.No.65/1B Poikaraipatti, Madurai North Taluk, Madurai and to quash the said Sale deed and to quash the 2nd impugned order as far as retaining the Patta to the property under S.No.65/1B, Poikaraipatti, Madurai North Taluk, Madurai in the name of the 6th respondent and direct the respondents 1 to 4 to grant patta to the property under S.No.65/1B, Poikaraipatti, Madurai North Taluk, Madurai in favour of the petitioner Temple.

3. Two of the writ petitions, namely, W.P(MD)No.15513 and 15725 of 2021 were filed by the appellant temple, seeking to quash the orders of the Sub Registrar. The entire dispute centres around the right claim by the temple in respect of the property in Survey No.65/1B. It is not in dispute that the said property belonged to one Paramasamy Ambalam who had executed a settlement deed dated 9th July 1940. The question, that is raised in all these proceedings is as to whether the settlement deed creates an absolute endowment /



dedication in favour of the temple or not. An ancillary question is also raised on the nature of the will, that is said to have been executed by Paramasivam Ambalam on 24.10.1977. All these questions are essentially, questions that have to be decided by a competent Civil Court or the machinery provided under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1951. The Writ Court does not have the power to decide the questions of fact which would involve the appreciation of evidence.

4. Generally, a Writ Petition will not be entertained by the Constitutional Courts, if an effective alternative remedy is available. In the case on hand, we find that apart from the inability of the writ Court to decide the questions of facts, an alternative remedy is also available to the petitioner temple, it can either seek a declaration before the competent Civil Court or move the Authorities constituted under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1951, if they have jurisdiction to decide the issue. We should not be understood as having pronounced on the jurisdiction of the Authority. All that the learned Single Judge has done is to direct the temple to approach a Civil Court. We are therefore, unable to find a fault in the order of the learned Single Judge for having concluded



that these issues cannot be conveniently decided in the writ proceedings.

5. Therefore, W.A.(MD)Nos.241 and 332 of 2024 are dismissed.

6. As far as the W.P.(MD)No.14929 of 2020 is concerned, W.P. (MD)No.14929 of 2020 was filed by the 7th respondent and the learned Single Judge had allowed the writ petition on the conclusion that the Sub Registrar cannot refuse to register the instrument of sale in as much as the temple has conceded the title in the revision before the Commission. We also find that there is callous indifference on the part of the Sub Registrar concerned when he passed an order impugned in W.P.(MD)No.14929 of 2020. A refusal check slip issued by the Sub Registrar was questioned before this Court in W.P.(MD) No.20701 of 2018. The Writ Court set aside the order and required the Sub Registrar to follow the procedure prescribed by this Court in the case of *Sudha Ravikumar .vs. The Special Commissioner and Commissioner, H.R. & C.E. Department, Chennai, reported in (2017) 3 CTC 135*. The Sub Registrar, however, without following the procedure choose to short circuit the entire issue and attempted to pull a fast one on this Court by referring to para No.4 of the observations made in *Sudha Ravikumar case* and relegating the



presentant of the sale deed to the Civil Court. We are convinced that either the Sub Registrar did not understand the language (English) or that he had done it wantonly because of the failure on the part of the presentant of the sale deed to grease his palms. The Inspector General of Registration is directed to take appropriate disciplinary action against the Sub Registrar for dereliction of duty and file a report on the action taken before this Court within a period of three months from today.

7. Adverting to the merits of this case, we find that the temple has conceded a title of the vendor of the petitioner in W.P.(MD) No.14929 of 2023 before the Special Commissioner and an attempt of the temple to withdraw the concession has also been rejected by the Commissioner. We have upheld the order of rejection in W.P.(MD) No.3126 of 2023. Therefore as things stand as of today, the Registrar cannot refuse to register any sale deed on the basis of objection by the temple. Therefore the learned Single Judge was perfectly justified in not only setting aside the order of the Registrar but also observing that the Registrar cannot refuse to register the documents executed by the 7th respondent or any person claiming under them. Since we have found that the temple can still seek to establish its right in a manner



known to law. We must observe here that the temple is entitled to establish its rights in the manner known to law before a proper forum without attempting shortcut method, like invoking the jurisdiction of this Court under Article 226 of Constitution of India.

8. With the above observations W.A.(MD)No.203 of 2024 is also dismissed. No costs. Consequently, connected miscellaneous petition is closed.

9. It will be open to both the parties to make all claims or defences available to them under law in the event, proceedings are taken.

10. Post the matter on 03.11.2024, *for reporting compliance.*“

2. In view of certain observations made at the end of Paragraph 6 of that order directing the Inspector General of Registration to take appropriate disciplinary action against the Sub Registrar, these appeals are listed today under the caption, 'for reporting compliance'.

3. Today, the learned Special Government Pleader produced a copy of a charge memo dated 05.11.2024, whereby charges have been framed against the Sub Registrar under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, 1955.

4. In view of the same, the direction already issued by this Court has been

<https://www.mhc.tn.gov.in/judis>



complied with and hence, no further orders are required to be passed in these writ appeals.

5. However, we hasten to add here that the earlier observations made in the final order dated 08.08.2024 are only on a *prima facie* view, for the purpose of exploring as to whether there could be any misconduct on the part of the Sub Registrar, which facts can be revealed only after conduct of a proper domestic enquiry. It is needless to point out that the delinquent officer, who has now been served with the charge memo, should be extended with due opportunities during the course of enquiry and the principles of natural justice shall be strictly adopted. We also would like to stress that whatever observations made in our earlier order dated 08.08.2024 are only on a *prima facie* view and therefore, neither the Enquiry Officer nor the disciplinary authority shall be influenced by any of the remarks made in the said order, but shall conduct an independent enquiry on its own merits and take further course of action in accordance with law.

6. With the above observation, the writ appeals are closed.

Sd/-

Assistant Registrar(CS I)

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/12/2024

Sub Assistant Registrar
(CS-1/II/III/IV)



1. The Tahsildar,
Madurai East Taluk, Madurai District.
2. The Sub Registrar,
Thamaraipatti @ Chittampatti,
Madurai District.
3. The Additional Chief Secretary
And Commissioner of Land Administration,
Chepauk, Chennai.
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The Office of the Commissioner of Land
Administration Chepauk Chennai - 600 005.
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7. The Tahsildar
Melur Taluk, Madurai District.
8. The Sub Registrar
Thamaraipatti Sub-Registrar Office
Melur Main Road, Madurai.
9. The Tahsildar, Madurai North Taluk,
Madurai

Copy to:

The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai



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ORDER DATED : 05/11/2024

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ORDER

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WA(MD). No.203 of 2024

Giving direction and etc.
as stated within.

BV (16/12/2024) 17P/ 11C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.