



W.P.(MD)No.5309 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.5309 of 2023

N.Palanichamy

... Petitioner

Vs.

- 1.The Commissioner (HR&CE),
HR&CE Department,
Uttamar Gandhi Salai,
Chennai- 34.
- 2.The Joint Commissioner (HR&CE),
HR&CE Department, Dindigul District.
- 3.The Assistant Commissioner (HR&CE),
HR&CE Department, Dindigul District.
- 4.The Executive Officer,
Arulmigu Bathrakaliamman and
Meenakshi Amman Temple,
Ambathurai Village, Aathur Taluk,
Dindigul.
- Presently in charge of
The Execer, Officer,
Arulmigu Srinivasa Perumal Thirukovil, Malayadivarm,
Dindigul.
- 5.The District Registrar,
Dindigul District, Dindigul.



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6.The Sub-Registrar,
Office of the Sub-Registrar,
Chinnalapatti,
Dindigul District.

7.The Tahsildar,
Aathur Taluk, Ambadurai Village,
Dindigul District.
(R7 suo-motu impleaded vide Court
order dated 13.03.2023)

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the 6th Respondent to register the Sale Deed in relation to Petitioner's property in S.No.14/13 to an extent of 1020 sq.ft. of land situated at Ambaduri Village, Aathur Taluka, Dindigul District and further declare that the Respondents 1 to 4 have no right or claim in relation to any portion of land in S.No.14/13.

For Petitioner : Mr.S.Loganathan

For Respondents : Mr.K.S.Selvaganesan,
Addl. Govt. Pleader for R1 to R3
Mr.M.Siddharthan,
Addl. Govt. Pleader for R5&R6
Mr. A.N.Ramanathan for R4

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the 6th Respondent to register the Sale Deed in relation to



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Petitioner's property in S.No.14/13 to an extent of 1020 sq.ft. of land situated at Ambaduri Village, Aathur Taluka, Dindigul District and further declare that the respondents 1 to 4 have no right or claim in relation to any portion of land in S.No. 14/13.

2. It is the case of the petitioner that the petitioner's father has purchased a portion of the property to an extent of 1020 sq. ft. in S.No.14/1, Ambadurai Village, Aathur Taluk, Dindigul District under a sale deed dated 13.03.2022 and he has executed a Will dated 28.02.2011 in favour of the petitioner's mother. The petitioner's mother had executed a gift settlement deed in respect of subject property in favour of the petitioner. Thereafter, the petitioner has executed a sale deed. When the petitioner has presented the said sale deed for registration, the same was refused to be registered on the ground that objection has been received from the respondents. Therefore, the petitioner has filed this Writ Petition seeking for a direction to the 6th respondent to register the sale deed executed by the petitioner.

3. Except 7th respondent, the other respondents have not filed their counter affidavit.



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4. It is the stand of the temple authorities that the property originally belonged to the temple and the total extent of the subject property is 7.84 cents of lands. One of the trustees of the temple has leased out the property, which has been challenged by the other trustees in O.S.No.302 of 1961 and the suit was decreed, as against the same an appeal was filed in A.S.No.156 of 1963 and the same was also dismissed. Challenging the same, S.A.No.168 of 1965 was filed before this Court. In the said appeal, a compromise said to have been taken place with the approval of the Commissioner, wherein the subject property was given up by the temple in view of the amount fixed by the Commissioner. According to the learned counsel, only an extent of 3.44 acres are the subject matter of the compromise, whereas the entire extent of 7.84 acres have been converted into plots and sold to various persons. Hence, opposed this Writ Petition.

5. The learned counsel appearing for the petitioner would submit that the temple retain only 10 cents and the remaining lands have already been sold to various persons.

6. Heard the submissions made by the learned counsel appearing on either side and perused the materials available on record.



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7. On a perusal of the records, it is seen that the communication dated 30.03.2010 sent by the temple authorities to the District Registrar makes it clear that only 10 cents alone is retained by the temple. Further, it is also brought to the notice of this Court that various writ petitions have already been filed before this Court in respect of the subject property. In W.P.(MD)No.7347 of 2018, this Court has considered the rival contentions and allowed the writ petition. Now the contention raised by the respondents that the very proceedings of the Commissioner is not available in file and sanction should be given only under Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 and not under Section 43 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. It is relevant to note that whether sanction is properly granted or not cannot be decided at this stage. When this Court recorded the compromise, based on the proceedings of the Commissioner, if the temple authorities is of the view that there is no such proceedings, they ought to have challenged the very compromise decree. They have slept over the issue for several years. Thereafter, various transactions have been made in respect of the subject properties. First time, they have sent communication to the District Registrar on 30.03.2010 indicating that the temple has retained only 10 cents in the subject property. Therefore, requested not to register any document. Challenging the



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same, several writ petitions have been filed before this Court in W.P.(MD)Nos. 1084 of 2015, 7347 of 2018, 22347 of 2019 and 18797 of 2016 and this Court after carefully considered the rival submissions allowed the Writ Petitions. Therefore, it is for the temple to establish their right in a proper manner. Merely on the basis of giving an objection letter to the District Registrar, the temple cannot supersede judgment of this Court passed in the second appeal. If the temple is of the definite view that there was no proceedings of the Commissioner and the same has been created only for the purpose of compromise, the remedy of the temple is not before the Writ Court and they have to file necessary suit before the competent civil Court. Without doing so, merely on raising objections, they cannot defeat the right of the parties, which have already been created pursuant to the decree of the civil Court.

8. In view of the above observations, this Writ Petition is allowed and the 6th respondent is directed to register the sale deed presented by the petitioner, within a period of seven days from the date of receipt of a copy of this order. There shall be no order as to costs.

vsm

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NCC : Yes/No

Index : Yes/No



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