



W.P(MD)No.7186 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.7186 of 2022

M.S.Senthilkumar

... Petitioner

Vs.

1.The Inspector General of Registration,
Santhome, Chennai-28.

2.The Sub Registrar,
Velayuthampalayam, Karur.

3.A/m.Balasubramaniasamy Temple,
Rep. By its Executive Officer,
Pugazhaimalai, Velayuthampalayam,
Karur.

4.The Joint Commissioner,
HR & CE, Trichy-6.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the 2nd respondent vide proceedings No.RFL/Velayuthampalayam/12/2022, dated 12.03.2022 and to quash the same and consequently, to direct the 2nd respondent to register the Document No. 12/2022 and release the same.



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For Petitioner : Mr.S.Vijayakumar,
Senior Counsel for Mr.M.Kumar
For R1 & R2 : Mr.M.Siddharthan,
Additional Government Pleader
For R3 : Mr.M.Saravanan
For R4 : Mr.K.S.Selva Ganesan

ORDER

Challenge has been made to the refusal check slip issued by the 2nd respondent, dated 12.03.2022, based on the objection given by the 3rd respondent that the property belongs to 3rd respondent Temple.

2.It is the case of the petitioner that the property in question belonged to his father and he executed a settlement deed dated 06.01.2009 in favour of the petitioner. Thereafter, the petitioner executed a settlement deed in favour of his mother and when the same was presented for registration, it was refused by the 2nd respondent, vide proceedings dated 12.03.2022, on the ground of objection given by the 3rd respondent, claiming the property in question belongs to temple.



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3.The learned Senior Counsel appearing for the petitioner would submit that the Temple has already filed a suit in O.S.No.155 of 2006, seeking permanent injunction, restraining the Registration Department from registering the document, on the file of Principal District Munsif Court, Karur, where I.A.No.145 of 2006 is also filed, seeking interim injunction, restraining the 2nd respondent from registering the document. The said I.A., was dismissed and therefore, there is no legal impediment for registering the document. Aggrieved by the same, the temple filed an appeal in C.M.A.No.3 of 2007 on the file of the District Court, Karur, which was dismissed on 24.09.2007, holding that there are no materials in support of the claim of the Temple. Therefore, when the title has not been established by the Temple and the petitioner's predecessor in title was granted patta under Section 8 of Tamil Nadu Minor Inam (Abolition and Conversion into Ryotwari) Act 30 of 1963 (hereinafter referred to as 'Act 30 of 1963') and the proceedings have reached finality, at this stage, the temple cannot object, merely by citing some entries found earlier in the 'A' register.

4.The learned counsel appearing for the 3rd respondent would submit that though patta has been granted under Section 8 of Act 30 of 1963, the amount as directed to be paid under Clause (i)(b) of Sub Section (2) of Section 8 of the Act 30 of 1963, has not been paid. Therefore, according to him, as



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long as the amount has not been paid, mere issuance of patta will not convey any title. Further, the suit filed by the 3rd respondent in O.S.No.155 of 2006 was dismissed by judgment and decree dated 18.11.2022. As against which, the temple filed an appeal, which is pending. Therefore, at this stage, the document cannot be registered.

5.I have heard the learned counsel on either side and perused the materials available on record.

6.It is not in dispute that the patta was issued under Act 30 of 1963. The only contention raised before this Court is that the payment as directed under Section 8 of the Act 30 of 1963 has not been paid by the pattadharar. It is to be noted that as per Section 8(3) of Act 30 of 1963, any arrear of the amount due from any person under Clause (i)(b) of Sub Section (2) shall be recovered together with such interest as may be prescribed as if it were an arrear of land revenue.

7.Be that as it may, the trial Court has considered the receipts produced in this regard and dismissed the suit, vide judgment and decree dated 18.11.2022, by recording a finding that the amount is paid.



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8. In such view of the matter, as the title has already been decided, now, it cannot be reopened. Further, as on today, since the title is not vested with the 3rd respondent Temple, if at all the 3rd respondent still wants to establish the right for recovery of possession, it is always open for them to file an appropriate civil Suit for recovery of the temple property.

9. It is relevant to note that this Court in ***Subramani Vs. 1. The Sub Registrar, Office of the Sub-Registrar, Rasipuram. 2. The Inspector General of Registration, Chennai***, has held as follows:-

“20. It is relevant to note that many registration has been refused citing Section 22-A on the only ground that some requests are made by Hindu Religious and Charitable Endowments Board or the Waqf Board. It is relevant to note that the Division Bench of this Court in the case of Sudha Ravikumar v The Special Commissioner reported in AIR 2017 Mad 203, wherein, it is held as follows:

“the registering authority is not bestowed with any quasi-judicial function to hold a roving enquiry in respect of the title to the property. But he has to hold a summary enquiry for the limited purpose of satisfying himself that the document deserves to be registered. Such enquiry is neither judicial nor quasi-judicial.”



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21. Similarly, this Court in the case of *D. Kalaiyarasan v Inspector General* reported in (2018 SCC Online Mad 7224), it was held that unless and until the authority has clinching materials to show that the property belonged to the religious institution, the registration cannot be refused. Also, this Court in the case of *G. Rajasulochana v Inspector General* made in W.P 29706 of 2024 dated 16.04.2024, it was observed as under:

“If there is a serious dispute on the title to the land, such questions cannot be decided by the Registrar at the stage of registering a document since he is only conducting a limited summary enquiry.”

22. Therefore, this Court is of the view that merely on the basis of some letters without production of title deed clinchingly establish the title of the Waqf Board and religious institutions mere citing some objections in the form of letters, document cannot be refused to be registered.”

10. Considering the above judgment, the impugned refusal check slip issued by the 2nd respondent dated 12.03.2022 stands quashed and the 2nd respondent is directed to register the document presented by the petitioner within a period of one week from the date of receipt of a copy of this order. It is for the temple to establish the right in the manner known to law.



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11. With the above direction, this Writ Petition is allowed. No costs.

27.08.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

Yuva

To

1. The Inspector General of Registration,
Santhome, Chennai-28.

2. The Sub Registrar,
Velayuthampalayam, Karur.



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N.SATHISH KUMAR, J

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