



W.P.(MD)No.8751 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.8751 of 2023
and W.M.P.(MD)No.8011 of 2023

1.S.Kubesala
2.D.Shanthi
3.S.Sathish

... Petitioners

Vs.

1.The Inspector General of Registration,
Door No.100, Santhome High Road,
Foreshore Estate, Pattinampakkam,
Chennai-600 028

2.The District Registrar (Administration),
Madurai South, Madurai District.

3.The Joint Sub Registrar No.IV,
Madurai South, Madurai.

4.The Deputy Commissioner,
Arulmigu Subramaniaswamy Temple,
Thirupparankundram, Madurai.

(R4 Name Suo Motu Corrected Vide Court order
dated 18.04.2023 in WP(MD).8751/2023)

.... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for records pertaining the impugned memo dated 30.03.2022 in respect of Pending Document No.P133 of 2021 passed by the third respondent and quash the same and consequentially directing him to register the gift settlement deed dated 29.07.2021 executed by the petitioners 1 and 2 in favour of the third petitioner and assign a document number and release the same within a time frame that may be stipulated by this Court.

For Petitioners	: Mr.J.Barathan
For Respondents	: Mr.M.Siddharthan, Addl. Govt. Pleader for R1 to R3 Mr.V.Chandrasekaran for R4

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for records pertaining to the impugned memo dated 30.03.2022 in respect of Pending Document No.P133 of 2021 passed by the third respondent and quash the same and consequentially directing him to register the gift settlement deed dated 29.07.2021 executed by the petitioners 1 and 2 in favour of the third petitioner and assign a document number and release the same within a time frame that may be stipulated by this Court.



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2. It is the grievance of the petitioners that when they presented the settlement deed for registration, the same was refused to be registered on the ground that an objection letter has been given by the 4th respondent. Challenging the same, the petitioners have filed this Writ Petition.

3. It is the contention of the learned counsel appearing for the petitioners that the property originally purchased by on Sivankalai Thevar on 25.11.1972 from one Dr.Lalitha Kameswaran. The first petitioner's husband has purchased the said property on 20.07.2001. After the death of her husband on 09.03.2020, the petitioners became entitled to equal share over the subject properties. Thereafter, the petitioners 1 and 2 have executed a settlement deed in favour of the third petitioner. When the petitioners presented the said settlement deed for registration, the same was refused to be registered on the ground that an objection letter has been given by the 4th respondent.

4. The third respondent has filed a counter affidavit in which it is stated that as against the impugned order, an appeal remedy is available before the District Registrar. According to them, only 76 cents of land alone has been removed from the temple properties. Hence, opposed this Writ Petition.



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5. The fourth respondent temple has filed a counter affidavit without adverting to any factual aspects and according to them, refusal order has not been questioned under Article 226 of the Constitution of India and the temple is unnecessarily made as parties to this Writ Petition.

6. The learned counsel appearing for the petitioners would submit that originally, the proceedings under Act 30 of 1963 was initiated and patta was granted in favour of one Lalitha Kameswaran. The same has been challenged before the Tribunal in C.M.A.No.60 of 1968. The said C.M.A. was allowed and the matter was once again remitted to the Settlement Officer for fresh consideration. Thereafter, once again, after enquiry, patta has been granted to the said Lalitha Kameswaran. Challenging the said order of granting patta, once again C.M.A. has been filed in C.M.A.No.762 of 1969, which has also been dismissed. Thereby, the proceedings has been reached finality. Now the temple has no right to question the title. To buttress this submission, all the proceedings are produced before this Court.

7. This factual aspect has not been disputed by the respondents neither in the counter nor in the submissions.



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8. Heard the learned counsel appearing for the petitioners, the learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the 4th respondent and perused the materials available on record.

9. On a perusal of the order passed by the Tribunal in C.M.A.No.762 of 1969, it is seen that patta issued in favour of Lalitha Kameswaran has been confirmed. The amount as directed has also been paid as seen from the proceedings of the Tahsildar dated 16.09.1971. Therefore, now the fourth respondent temple cannot claim ownership merely on the basis of the objection given before the authorities. Be that as it may, 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***, 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.”

10. Following the same, this Court in ***Subramani Vs. 1.The SubRegistrar, Office of the Sub-Registrar, Rasipuram. 2. The Inspector General***



of Registration, Chennai, has held as follows:

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“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.”

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.”



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11. Considering the above, this Court is of the view that as the proceedings under Act 30 of 1963 has been reached finality and no further appeal has been filed as against the said proceedings, now the fourth respondent claiming ownership, merely on the basis of objection letter before the authorities, is not maintainable and it is for them to establish the title in an appropriate manner. Therefore, the impugned memo is liable to be set aside.

12. Accordingly, the impugned memo dated 30.03.2022 passed by the third respondent is set aside. The third respondent is directed to register the settlement deed dated 29.07.2021, within a period of one week from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.08.2024

NCC : Yes/No
Index : Yes/No

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N.SATHISH KUMAR, J.

vsm

To

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