



W.P.(MD)No.9392 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.9392 of 2023

S.Chidamparam

... Petitioner

Vs.

1.The District Registrar,
Karur District,
Karur.

2.The Sub-Registrar,
Velayudhampalayam,
Karur District.

3.The Executive Officer,
Arulmigu Kalyana Pasupatheeswarar
Swamy Temple,
Karur, Karur District.

.... Respondents

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 the records relating to the impugned check slip having Refusal Number:RFL/Velayuthampalayam/61/2022 dated 02.12.2022 passed by the 2nd respondent and consequent impugned order in Na.Ka.No.6042/AA1/2021 dated



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23.02.2022 passed by the 1st respondent and quash the same and subsequently direct the 2nd respondent to register and release the sale deed dated 02.12.2022 relating to the land in Survey No.300 (Sub-divided as Survey No.300/2) measuring to an extent of 0.36 ½ Acre out of 1.30 Acre, Nanjaithottakurichi, Pugalur Taluk, Karur District.

For Petitioner : Mr.V.Sukumar
For Respondents : Mr.C.Satheesh,
Govt. Advocate for R1 & R2
Mr.P.Athimoolapandian for R3

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned check slip having Refusal Number:RFL/Velayuthampalayam/61/2022 dated 02.12.2022 passed by the 2nd respondent and consequent impugned order in Na.Ka.No.6042/AA1/2021 dated 23.02.2022 passed by the 1st respondent and quash the same and subsequently direct the 2nd respondent to register and release the sale deed dated 02.12.2022 relating to the land in Survey No.300 (Sub-divided as Survey No. 300/2) measuring to an extent of 0.36 ½ Acre out of 1.30 Acre, Nanjaithottakurichi, Pugalur Taluk, Karur District.



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2. It is the specific case of the petitioner that in respect of the subject property, patta has been issued under Section 8(1) of Act 30 of 1963 and the order has become final. Thereafter, in the UDR Patta and the 'A' Register also the names of the petitioner's predecessor have been mentioned. When the petitioner presented the sale deed for registration, the same was refused to be registered on the ground that an objection letter has been given by the third respondent. Challenging the same, the petitioner has filed this Writ Petition.

3. It is the contention of the learned counsel appearing for the third respondent temple before this Court that the amount as determined in the patta proceedings has not been paid. Therefore, the petitioner's vendor is not entitled to get any title in respect of the subject property. Hence, opposed this Writ Petition.

4. Whereas the learned counsel appearing for the petitioner would submit that the amount has already been paid.

5. Heard the learned counsel for the petitioner, the learned Government Advocate appearing for the respondents 1 and 2 and the learned counsel appearing for the third respondent and perused the materials available on record.



6. Considering the facts and circumstances of the case, this Court is of the view that the issuance of patta is not disputed. However, whether the amount has been paid or not is a disputed fact and that has to be established only before the competent civil Court.

7. In such view of the matter, if the temple wants to establish the fact that the subject property is belonged to them, it is for them to file a suit for declaration before the competent civil Court. Patta has been issued through the proceedings under Section 8(1) of Act 30 of 1963 to the petitioner's vendor and still the said proceedings has not been challenged by the temple. Therefore, without challenging the said proceedings, now the 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.”



8. 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:

“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



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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.”

9. Considering the above, as the patta has been issued through the proceedings under Section 8(1) of Act 30 of 1963 to the petitioner's vendor and still the said proceedings has not been challenged by the third respondent, now the third respondent cannot claim ownership merely on the basis of objection letter before the authorities and it is for them to establish the title in an appropriate manner. Therefore, the impugned order is liable to be set aside.

10. Accordingly, the impugned refusal slip dated 02.12.2022 and the consequential order of the 2nd respondent dated 23.02.2022 are set aside. The 2nd respondent is directed to register the sale deed dated 02.12.2022, 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.

30.08.2024

NCC : Yes/No
Index : Yes/No

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