



W.P.(MD)No.14243 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.08.2024

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THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.14243 of 2022
and WMP(MD)No.10178 of 2022

A.Elango

.. Petitioner

Vs.

1. The Sub-Registrar,
Vedachendur,
Dindigul District.

2.The Assistant Commissioner,
HR&CE Department,
Ottanchathiram,
Dindigul.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamsu, calling for records relating to the proceedings of the 1st respondent refusal Slip No. RFL/Vedacendhur/51/2022 dated 14.06.2022 and quash the same as illegal and consequently, direct the 1st respondent to register the power of attorney dated 14.06.2022 executed by the petitioner in respect of the property comprised in Old S.No.189/2, New S.No.189/2A, having an



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extent of 1 Acre and 40 cents situated in Sullurambu Village, Dindigul West Taluk, Dindigul District.

For Petitioner : Mr.R.Murali

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader for R3

: Mr.M.Siddharthan
Additional Government Pleader
for R1 & R2

ORDER

Challenge has been made to the refusal slip issued by the first respondent refusing to register the sale deed dated 14.06.2022 on the ground that the temple authorities has issued notice stating that the property belong to the HR & CE Department.

2. Heard both sides and perused the materials available on record.

3. It is the contention of the learned counsel for the petitioner that ryotwari patta was granted in favour of two individuals, namely Lakshmiammal and Govindammal under Section 8 (2)(i)(a) of the Tamil Nadu Act 30 of 1963 [Tamilnadu Minor Inams (Abolition and



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Conversion into Ryotwari) Act] in respect of the subject property in S.No.189/2 to the extent of 4.2 Acres. Thereafter, Lakshmiammal sold her share in favour of Govindammal on 22.01.1981 and further, the property had been dealt by the said individual and several alienations also took place. All the revenue records stands in the name of the parties. When the documents were presented for registration, at this stage, merely on the basis of some letter addressed by the authorities, the registration has been refused. Hence this writ petition.

4.The learned counsel appearing for the HR & CE Department, on instructions, submitted that though patta had been issued to the individual, the same had been issued without proper enquiry. Now the temple is taking steps to retrieve the property from the third parties.

5. It is the case of the respondent HR&CE Department that the subject property comprised in S.No.189/2 to the extent of 4.2 Acres belongs the Arulmigu Thevarmalai Perumal Kovil, K.Pudukkottai. It is the contention that after remand from the appellate Tribunal, the Assistant Settlement Officer passed an exparte order. According to them, the property belongs to the temple and hence they gave a letter for not



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registering the document.

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6. Perusal of the entire materials reveals that the issuance of the patta in favour of the purchasers in title is not in dispute. It is relevant to note that the very reply and the instructions submitted by the learned counsel appearing for the HR & CE Department indicates that the patta has been issued under Act 30 of 1963 long back and the same has not been challenged so far. Now the instructions reveal that still they have not taken any steps. It also further reveals that they only intend to take steps to retrieve the property. Therefore, as on today, the title is not vested with the temple. Be that as it may, it is relevant to note the judgment of 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.”



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7. In this regard, it is relevant to extract the judgment of this Court in the case of ***V.Sathishkumar v. The Sub Registrar, Sulur and others(W.P.No.13006 of 2024 dated 05.06.2024)***. The relevant portion is extracted hereunder:

“7.Following the same, 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.”

21. Similarly, this Court in the case of D. Kalaiyaran 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:



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“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“.

8. Considering the above, as the title is not in favour of the temple at present, merely on the ground that the temple may take action to retrieve the property in future may not be a ground to refuse the registration at present. Therefore, the refusal slip issued by the first respondent refusing to register the power of attorney dated 14.06.2022 is set aside. The first respondent is directed to register the power of attorney dated 14.06.2022 and it is upto the HR & CE Department to establish the title in an appropriate manner. Even if the title is established, the property can be retrieved at any time. Mere registration in favour of the third parties is not a bar for retrieving the property, provided, the title is conclusively established in an appropriate manner and not by giving just a letter to the registration authorities.



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9. With the above directions, this writ petition stands allowed.

No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
PJL

To

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N.SATHISH KUMAR, J.

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