



W.P(MD)Nos.449 and 511 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)Nos.449 and 511 of 2018

and

W.M.P.(MD)Nos.445 and 444 of 2018

Shri Shri Vyasaraaja Matha (Sosale),
Karnataka, Throug its Administrator,
Rep. by its Authorised Representative,
G.Ragavendran, S/o.N.Gururajan,
Co Ordinator (Tamil Nadu),
TVS Nagar, Madurai-3.

... Petitioner in W.P.
(MD)No.449 of 2018

M.D.Selvakumar

... Petitioner in W.P.
(MD)No.511 of 2018

Vs.

1.The District Collector,
Madurai District,
Collectorate, Madurai - 625 020.

2.The Sub Registrar,
Arasaradi Sub Registrar Office,
Arasaradi, Madurai.

3.M.D.Selvakumar

... Respondents in W.P.
(MD)No.449 of 2018

1.The District Collector,
Madurai District,
Collectorate, Madurai - 625 020.



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2. The District Registrar,
Madurai South, Madurai.

3. The Sub Registrar,
Arasaradi, Madurai.

4. Sri Sosalae Vyasaraaj Mutt,
Rep.by its Administrator,
K.Jairaj, I.A.S., No.1,
Beene Govindapa Chatra,
Gandhi Nagar, Basanvangudi,
Bangalore, Karnataka State

... Respondents in W.P.
(MD)No.511 of 2018

[4th respondent was impleaded vide order dated 09.12.2019]

PRAYER in W.P.(MD)No.449 of 2018: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in the impugned order in Ni.Mu.No.49458/2017/G5 dated 20.12.2017 passed by the 1st respondent and quash the same and consequently direct the 2nd respondent to forbear the registration of the sale deed in favour of the 3rd respondent in respect of the property comprised in T.S.No. 1208/22/2B with an extent of 465 sq ft., in No. 81, Kanagavel Colony, Ward No.5, Madurai City, Madurai and consider my representation dated 05.01.2018.

PRAYER in W.P.(MD)No.511 of 2018: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the third respondent to register the petitioner's sale deed dated 20.04.2015 insofar as the house purchased by him measuring about 465 sq.ft in Survey No.1208/22/2B at No.81, Kanagavel Colony, Ward No.5, Madurai pursuant to the order of the first respondent passed in his proceedings Ne.Mu.No.49458/2017/G5 dated 20.12.2017.



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In W.P.(MD)No.449 of 2018:

For Petitioner : Mr.V.Ramakrishnan
For R1 & R2 : Mr.C.Satheesh
Government Advocate
For R3 : Mr.K.Muraleedharan

In W.P.(MD)No.511 of 2018:

For Petitioner : Mr.K.Muraleedharan
For R1 to R3 : Mr.C.Satheesh
Government Advocate

COMMON ORDER

In W.P.(MD)No.449 of 2018, challenge has been made to the refusal check slip issued by the respondent with regard to the subject property stating that the said property is the mutt property. In W.P.(MD)No.511 of 2018, a direction is sought to register the sale deed with regard to the subject property.

2.The vendor of the petitioner in W.P.(MD)No.511 of 2018 (purchaser) had purchased the property in question on 20.06.1986 from the representative of the mutt and the petitioner purchased the property on 20.04.2015. When the sale deed was presented for registration, the same has been refused to be registered on basis of the objection letter given by the District Collector. The said proceedings had been challenged before this Court



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in W.P.(MD)No. 6616 of 2015. This Court by an order dated 09.10.2017 directed the District Collector to conduct an enquiry and pass appropriate orders after giving an opportunity of hearing to both sides.

3.In pursuant to the same, the District Collector after completing the enquiry, had issued 'no objection certificate' to the petitioner to the effect that the interest of the Government is not involved in the issue and hence, the Government has no objection for registering the document. Challenging the said finding, the Mutt has filed a writ petition in W.P.(MD)No.449 of 2018.

4.Since the subject property involved in these two writ petitions are one and the same, these writ petitioners are taken up together and disposed of by way of this common order.

5.Heard the learned counsel appearing on either side and perused the materials placed on record.

6.It is the contention of the petitioner in W.P.(MD)No.511 of 2018 (purchaser) that the sale made with regard to the immovable property comprised in a Hindu, Muslim or Buddhist religious or charitable endowment



ought to have been challenged within a period of twelve years as per Article 94 of the Limitation Act. In the case on hand, the property has been sold by the mutt in the year 1986 and the said sale is challenged after a lapse of twelve years. Further, the District Collector had also clearly held that there is no objection on the side of the Government for selling the subject property. Such being the position, the authorities cannot refuse to register the subject property.

7.The learned counsel appearing for the mutt would submit that the very sale made in favour of the vendor of the petitioner (purchaser) in the year 1986 is void *ab initio* and the same did not convey any title to the petitioner or his vendor. Therefore, he objected the writ petition filed by the purchaser.

8.The fact that the property originally belonged to the mutt namely, Sri Sri Vyasaraja Mutt, is not disputed. The power of attorney has been originally given by the mutt in favour one Renganathan. He leased out certain properties to various tenants. Thereafter, the said properties have been sold in the year 1986 without obtaining necessary permission as mandated under 34 of the Hindu Religious and Charitable Endowments Act. Therefore, any sale made in contravention of Section 34 of the Act, is null and void from the very inception itself. Therefore, the question of challenge to the sale within a period



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of twelve years does not arise at all. Further, as the very sale is not validated in the eye of law, the petitioner cannot perfect any title over the subject property.

Therefore, as a matter of right, merely on the basis of the District Collector's recommendation, the document cannot be sought to be registered, when the property falls within the ambit of Section 22-A of the Registration Act. Accordingly, the writ petition filed by the purchaser in W.P.(MD)No.511 of 2018 is **dismissed**.

9. It is to be noted that the District Collector has no authority whatsoever, to go into the issue of title. When there is a title dispute with regard to the subject property and when the sale made with regard to the subject property is void as the same had been sold contrary to the provisions of the Hindu Religious and Charitable Endowments Act, the finding of the Collector recommending registration of a document with regard to the subject property, cannot be sustained in the eye of law. Accordingly, the writ petition filed by the Mutt in W.P.(MD)No.449 of 2018 is **allowed**.

10. At this juncture, the petitioner in W.P.(MD)No.511 of 2018 seeks permission of this Court to deal with the structure made in the subject property alone.



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11.If really the petitioner's predecessor was a tenant and promoted the construction /superstructure in the subject property and the petitioner had purchased the said superstructure alone, this Court is of the view that there is no impediment for the petitioner to deal with the said structure alone. However, since the temple being the owner of the land, they are entitled to seek possession of the structure at any time and also to restructure the superstructure now available in the property in question at any time. No costs. Consequently, connected miscellaneous petitions are closed.

21.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

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Collectorate, Madurai - 625 020.

2.The District Registrar,
Madurai South, Madurai.

3.The Sub Registrar,
Arasaradi,
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N.SATHISH KUMAR, J

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