



W.P.(MD)Nos.22188 to 22192 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)Nos.22188 to 22192 of 2015

W.P.(MD)No.22188 of 2015:

Gomathi

...Petitioner

Vs

1.The Inspector General of Registration,
Registration Department,
Chennai.

2.The Sub-Registrar,
Sub-Registrar Office,
Boothapandi,
Kanyakumari District.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Nagercoil, Kanyakumari District. ... Respondents

(R-3 is suo motu impleaded vide Court Order dated 14.11.2022 in W.P.(MD)Nos.22188 to 22192 of 2015)

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 of the impugned proceedings in P57/2015 dated 16.10.2015 passed by the 2nd Respondent herein and quash the same as illegal and further direct the 2nd respondent herein to register the pending Settlement Deed (P.201500057) dated 01.07.2015 executed by the



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Petitioner in favour of her sons in respect of 3 ½ cents each (totally 7 cents) of land comprised in New Survey No.473/11 (Old S.No.1252D) of Azhagiyapandiapuram Village, Thovalai Taluk, Kanyakumari District, without insisting for No Objection Certificate from the H.R. & C.E., Department and release the same forthwith.

W.P.(MD)No.22189 of 2015:

V.Nathaniel

...Petitioner

Vs

1.The Inspector General of Registration,
Registration Department,
Chennai.

2.The Sub-Registrar,
Sub-Registrar Office,
Boothapandi,
Kanyakumari District.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Nagercoil, Kanyakumari District.

... Respondents

(R-3 is suo motu impleaded vide Court Order dated 14.11.2022 in W.P.(MD)Nos.22188 to 22192 of 2015)

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 of the impugned proceedings in P58/2015 dated 16.10.2015 passed by the 2nd Respondent herein and quash the same as illegal and further direct the 2nd respondent herein to register the pending Settlement Deed (P.201500058) dated 01.07.2015 executed by the Petitioner in favour of his son in respect of 3 ½ cents of land comprised



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in New Survey No.470/9 (Old S.No.1252-B) of Azhagiyapandiapuram Village, Thovalai Taluk, Kanyakumari District, without insisting for No Objection Certificate from the H.R. & C.E., Department and release the same forthwith.

W.P.(MD)No.22190 of 2015:

V.Nathaniel

...Petitioner

Vs

1.The Inspector General of Registration,
Registration Department,
Chennai.

2.The Sub-Registrar,
Sub-Registrar Office,
Boothapandi,
Kanyakumari District.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Nagercoil, Kanyakumari District.

... Respondents

(R-3 is suo motu impleaded vide Court Order dated 14.11.2022 in W.P.(MD)Nos.22188 to 22192 of 2015)

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 of the impugned proceedings in P59/2015 dated 16.10.2015 passed by the 2nd Respondent herein and quash the same as illegal and further direct the 2nd respondent herein to register the pending Settlement Deed (P.201500059) dated 01.07.2015 executed by the Petitioner in favour of his son in respect of 3 ½ cents of land comprised in New Survey No.470/9 (Old S.No.1252-B) of Azhagiyapandiapuram



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Village, Thoivalai Taluk, Kanyakumari District, without insisting for No Objection Certificate from the H.R. & C.E., Department and release the same forthwith.

W.P.(MD)No.22191 of 2015:

N.Suviseshamuthu

...Petitioner

Vs

1.The Inspector General of Registration,
Registration Department,
Chennai.

2.The Sub-Registrar,
Sub-Registrar Office,
Boothapandi,
Kanyakumari District.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Nagercoil, Kanyakumari District. ... Respondents

(R-3 is suo motu impleaded vide Court Order dated 14.11.2022 in W.P.(MD)Nos.22188 to 22192 of 2015)

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 of the impugned proceedings in P60/2015 dated 16.10.2015 passed by the 2nd Respondent herein and quash the same as illegal and further direct the 2nd respondent herein to register the pending Settlement Deed (P.201500060) dated 01.07.2015 executed by the Petitioner in favour of his son in respect of 6 cents of land comprised in New Survey No.473/11 (Old S.No.1252-D) of Azhagiyapandiapuram Village, Thoivalai Taluk, Kanyakumari District, without insisting for No



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Objection Certificate from the H.R. & C.E., Department and release the same forthwith.

W.P.(MD)No.22192 of 2015:

T.Chellathurai

...Petitioner

Vs

1.The Inspector General of Registration,
Registration Department,
Chennai.

2.The Sub-Registrar,
Sub-Registrar Office,
Boothapandi,
Kanyakumari District.

3.The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Nagercoil, Kanyakumari District. ... Respondents

(R-3 is suo motu impleaded vide Court Order dated 14.11.2022 in W.P.(MD)Nos.22188 to 22192 of 2015)

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 of the impugned proceedings in P61/2015 dated 16.10.2015 passed by the 2nd Respondent herein and quash the same as illegal and further direct the 2nd respondent herein to register the pending Settlement Deed (P.201500061) dated 01.07.2015 executed by the Petitioner in favour of his son in respect of 4 cents of land comprised in New Survey No.470/9 (Old S.No.1252-B1) of Azhagiyapandiapuram Village, Thovalai Taluk, Kanyakumari District, without insisting for No Objection Certificate from the H.R. & C.E., Department and release the same forthwith.



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(In all Writ Petitions):

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For Petitioner : Mr.K.K.Udayakumar
For Mr.A.Rahul

For R-1 and R-2 : Mr.S.P.Maharajan
Special Government Pleader

For R-3 : Mr.P.Subbaraj
Special Government Pleader

COMMON ORDER

Heard Mr.K.K.Udayakumar, learned counsel for Mr.A.Rahul, appearing for the petitioner, Mr.S.P.Maharajan, learned Special Government Pleader for the respondents 1 & 2 and Mr.P.Subbaraj, learned Special Government Pleader for the 3rd respondent.

2. These Writ Petitions have been filed challenging the order dated 16.10.2015 passed by the 2nd Respondent and further direct the 2nd respondent to register the pending Settlement Deed dated 01.07.2015 executed by the respective Petitioner in favour of his/her son in respect of lands situated at Azhagiyapandiapuram Village, Thovalai Taluk, Kanyakumari District, without insisting for No Objection Certificate from the H.R. & C.E., Department and release the same forthwith.



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3. The case of the petitioners is that they are joint holders of a patta issued by the revenue authorities. The counsel for the petitioners submits that the Temple, namely Kulasekara Nangai Amman Temple, is a denominational temple, as declared by a competent civil court through a judgment and decree dated 11.12.1985 in O.S. No. 638 of 1981. When the joint patta holders had been declared as a denominational temple by the competent civil court, the third respondent did not have any control over the temple or its properties, as they cannot interfere with the management of the temple. If anyone raises an objection, it could only be the said denominational temple and not the HR & CE. Therefore, the counsel prays that this Court set aside the order passed by the second respondent, which directed the petitioners to obtain a No Objection Certificate from the Hindu Religious and Charitable Endowments Department.

4. Countering his arguments, the learned Special Government Pleader contended that since the temple is a joint pattatharar, the petitioners patta does not define the boundaries of the land. Therefore, the temple has the right to have a say in the alienation made by other joint pattathars. Hence, he submitted that there is no infirmity in the



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order passed by the second respondent, rejecting the petitioner's request for want of a No Objection Certificate from the HR and CE Department.

5. I have considered the rival submissions made on either side and perused the materials available on record.

6. An order of returning the documents, sought to be registered by the petitioners was made by the second respondent indicating that the same should not be accepted for registration due to non production of No Objection Certificate from the HR and CE Department. However, the joint patta produced before this Court reveals that the Kulasekara Nangai Amman Temple is a co-holder of the patta along with the petitioners. Furthermore, the petitioners have produced a judgment and decree from a competent civil court, declaring the said temple a religious denomination institution. When such a declaration had been made, the HR and CE Department cannot have any control over the management of the affairs of the temple including its properties. When that be so, the insistence of the second respondent to register the documents only on production of No Objection Certificate from the HR and CE Department is invalid in the eye of law.



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7. For the aforementioned reasons, the impugned order dated 16.10.2015 is hereby set aside. The petitioners are at liberty to register the documents pertaining to the properties. It is pertinent to note that this Court in several decisions has held that the registering authority cannot require parties to produce documents to substantiate their title. Moreover, since the property belongs to a denomination temple, would have also not fall under Section 22-A of the Registration Act, for the Sub-Registrar who refused registration.

8. In view of the above, as and when the petitioners present the document for registration regarding the subject properties, the second respondent shall not insist on a No Objection Certificate from the HR and CE Department, provided all other requirements are met.

9. With the above direction, the Writ Petitions are allowed. There shall be no order as to costs.

18.11.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:

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- 2.The Sub-Registrar,
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K.KUMARESH BABU, J.

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