BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.15790 of 2018
and W.M.P.(MD)No.14142 of 2018

S.Kanagaraj ... Petitioner

Vs.

1.The District Collector,
Pudukkottai District.

2.The District Registrar,
Pudukkottai.

3.The Tahsildar,
Kulathur,
Pudukkottai District.

4.The Tahsildar,
Viralimalai Post and Taluk,
Pudukkottai District.

5.The Sub Treasury Officer,
Keeranur,
Kulathur Taluk,
Pudukkottai District.

6.The Sub Treasury Officer,
Illupur Post and Taluk,
Pudukkottai District.

7.The Sub Registrar,
Viralimalai Post and Taluk,
Pudukkottai District.

8.The Executive Officer,
Pudukkottai Devasthanam,
Pudukkottai. .... 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 of the 7th respondent return memo No.Nil dated 12.07.2018 and quash the same as illegal and arbitrary and in consequence thereof direct the 7th respondent to register the sale agreement dated 12.07.2018 presented by the petitioner for registration.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondents : Mr.M.Siddharthan,
Addl. Govt. Pleader for R1 to R7
Mr.G.Madhavan for R8

ORDER

Challenging the impugned order, directing the petitioner to obtain no objection certificate from the Hindu Religious and Charitable Endowment Department for registering the document, the present Writ Petition has been filed.

2. It is the case of the petitioner that originally the property in S.No.26/1 of Viralimalai Village was an inam land. A proceeding was initiated under the Tamil Nadu Act 30 of 1963 and a patta was also issued to one Ramachandran on 05.10.1971 and a sum of Rs.15,661.60 was fixed as the amount payable to the Viralimalai temple, under Section 21(2) of the Madras Minor Inams (Abolition and Conversion into Ryotwar) Act, 1963 for the redemption of Nattuvam service. The said Ramachandran has preferred an appeal before the Assistant Collector, Pudukkottai and the Assistant Collector, Pudukkottai by its order dated 12.07.1976 in RC.A.2-335/75 has reduced the amount from Rs.15,661.60 to Rs.13,339.80 and the said amount was paid by him on various dates. Thereafter, on 11.11.1979, the said Ramachandran sold the property to one Pattammal. The petitioner has purchased the property to an extent of 1200 sq. ft. in S.F.No.26/1 from one Chandra by a registered sale deed dated 17.08.2016, for valid consideration. Thereafter, the petitioner executed a sale agreement with one Selvaraj on 12.07.2018. When the petitioner presented the sale agreement for registration, the same was refused to be registered on the ground that 8th respondent by his letter dated 06.07.2018 requested not to register any document and also directed the petitioner to get no objection certificate from the Hindu Religious and Charitable

Endowment Department. Challenging the same, the petitioner has filed this Writ Petition.

3. The 8th respondent has filed a counter affidavit, in which it is stated that an extent of 5.17 acres of Viralimalai Village is a service inam land. According to them, though patta was granted under the Tamil Nadu Act 30 of 1963 in favour of one Ramachandran, he has not paid the amount fixed in the inam settlement. Even in the appeal in RC.A.2-335/75, dated 12.07.1976, the said Ramachandran was directed to remit the amount fixed by the Assistant Collector within 7 days. As per Rule 16 of Tamil Nadu Minor Inams (Abolition and convers into Ryotwari) Rules, 1965, the amount ought to have been paid within 6 months from the date on which Ryotwari patta was granted. Further, the amount has to be paid to the religious, educational or charitable institution. But in the present case, the amount has been paid to the revenue and not to the religious institution. Therefore, the property has to be reverted back to the temple. Hence, opposed this Writ Petition.

4. The learned counsel appearing for the petitioner submitted that patta has been issued to one Ramachandran under the Tamil Nadu Act 30 of 1963.

Though the amount has been fixed as Rs.15,661,60, on an appeal it has been reduced to Rs.13,339,80. Such an order has been passed in the year 1976. Thereafter, it appears that a notice has been issued on 20.08.1978 by the Thasildar for payment of amount. In the sale deed executed by the original pattadhar viz., Ramachandran dated 11.11.1979, a reference has been made with regard to the amount paid. A receipt has also been produced before this Court for evidencing the payment of Rs.3,000/-. It is the stand of the petitioner that the amount has been paid as installments.

5. The learned counsel appearing for the respondents would vehemently contend that the amount has not been paid in time.

6. Heard the submissions made by the respective learned counsel appearing for the parties and perused the materials available on record.

7. Considering the facts and circumstances of the case, this Court is of the view that, a patta has been issued through the proceedings under the Tamil Nadu Act 30 of 1963 and still the said proceeding has not been challenged by the 8th respondent temple. Now, the only ground taken by the 8th respondent that the amount determined in the patta proceedings has not been paid. But the fact remains that the amount determined by the original authority has been modified in the year 1976 and the in sale deed dated 11.11.1979, it is clearly averred that the amount has been paid on 13.11.1978.

8. Much emphasis has been made on Rule 16 of Tamil Nadu Minor Inams (Abolition and convers into Ryotwari) Rules, 1965, which indicates that the option referred to in sub-section (3) of Section 21 shall be in Form No.11. It shall be exercised within six months from the date on which he was granted ryotwari patta. Similarly Rule 18 makes it clear that any sum payable to a religious, educational or charitable institution under sub-section (4) of Section 8 and sub-section (4) of Section 20 shall be paid in cash from the sub-treasury of the taluk in which minor inam is situated. The order for demanding amount issued by the Tahsildar on 20.08.1978. The amount has also been paid and received by the authorities on 13.11.1978, as per the recitals in the sale dated 11.11.1979. Therefore, when the amount has been received, this Court is of the view that 6 months period mentioned in the Rule cannot be held to be mandatory. Further, having received the amount and without establishing the right by challenging the proceedings in the manner known to law, by just giving an objection letter to the

Sub Registrar, the registration of the document cannot be stalled. The temple cannot at this stage establish the title by way of mere objection given to the Thasildar. 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."*

9. 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 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."

10. Considering the above, as long as the proceedings issued under the Tamil Nadu Act 30 of 1963 has not been challenged, the temple without establishing its right in a competent civil Court, they cannot stall the registration of the document by giving mere objection. Various transfers have been taken place from the year 1979. Mere citing the rule for time limit, now the temple by just filing an objection cannot establish the title. It is for them to establish the title in the manner known to law. If the temple is able to establish the title in the manner known to law, mere registration of a document will not be a bar for the temple to retrieve the property, since there is no limitation for the temple to retrieve its property.

11. In such view of the matter, the impugned order of the 7th respondent dated 12.07.2018 stands quashed and the Writ Petition is allowed. The 7th respondent is directed to register the sale agreement dated 12.07.2018, within a period of 7 days 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.

02.09.2024

NCC : Yes/No
Index : Yes/No
vsm

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N.SATHISH KUMAR, J.

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