



W.P(MD)No.21211 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.21211 of 2023

M.Sundar

... Petitioner

Vs

1.The Assistant Commissioner,
Hindu Religious and Charitable
Endowment Department,
Nagercoil,
Kanyakumari District.

2.The Inspector,
Hindu Religious and Charitable
Endowment Department,
Bhoothapandi, Nagercoil,
Kanyakumari District.

3.The Sub Registrar,
Department of Registration,
Bhoothapandi,
Nagercoil,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings No.283 of 2023 dated 05.07.2023 issued by the third respondent and quash the same as illegal and consequently direct the third respondent to register the documents pertaining to Survey Nos.658/1, 658/3, 658/6, 659/1, 659/2 and 661/2 of Kadukarai, Kattupudur, Azhagiyapandipuram Village, Thovalai Taluk, Kanyakumari District.



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For Petitioner : Mr.Sricharan Rangarajan
Senior Counsel

For RR 1 & 2 : Mr.D.Gandhi Raj
Special Government Pleader

For R – 3 : Mr.D.Sadiq Raja
Additional Government Pleader

ORDER

This Writ Petition has been filed by the petitioner challenging the order passed by the third respondent dated 05.07.2023, thereby refusing to register the documents in respect of the property comprised in Survey Nos.658/1, 658/3, 658/6, 659/1, 659/2 and 661/2 of Kadukarai, Kattupudur, Azhagiyapandipuram Village, Thovalai Taluk, Kanyakumari District.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The petitioner along with one Selvan had purchased the property comprised in Survey Nos.658/1, 658/3, 658/6, 659/1, 659/2 and 661/2 of Kadukarai, Kattupudur, Azhagiyapandipuram



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Village, Thovalai Taluk, Kanyakumari District to an extent of 8 acres 16 cents and 20 sq. feet by the registered sale deed dated 11.09.2008 from his vendors B.Vishwanatha Iyer, K.Raman Iyer and B.Meenakshi. They derived title over the property from their great-grandfather Ramsubramaniya Iyer. Originally, the said Ramsubramaniya Iyer constructed a family Temple with the deity of 'Kasi Eswara Udayar Nainar Swamy Temple'. It was constructed only for exclusive family members. After the demise of the said Ramasubramaniya Iyer, the petitioner's vendors, who are being the legal heirs, had executed a sale deed in favour of the petitioner. In fact, some of the properties were dedicated to the Temple by the petitioner's vendors ancestors for maintenance of the private Temple. However, there was no public participation or contribution to the Temple. It is also evident from the proceedings of the second respondent dated 23.02.2016. While being so, the respondents 1 and 2 are claiming title over the subject property on the ground that there were some entries in the Village 'A' register of Azhagiyapandipuram Village stands in the name of VeeraKeralam Puthur, Kasi Eswara Udaiyar Nayinar Temple.



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4. On perusal of the counter-affidavit filed by the first respondent and on the submissions made by the learned Special Government Pleader appearing for the respondents 1 and 2 would reveal that the land in which the Temple is situated is classified as Government Poramboke in the revenue records and remarked as Temple. Therefore, Arulmigu Kasi Eswara Udaiyar Nainar Swamy Temple is coming under the jurisdiction of the first respondent. Hence, the petitioner sought for No Objection Certificate from the first respondent in order to deal with the subject property. On the enquiry, the land in which the Temple is situated is found as Government poramboke land and remarked as Temple. Therefore, the second respondent requested the third respondent not to register any deed in respect of the subject property. It was challenged before this Court in W.P(MD)No.17274 of 2021 and this Court by order dated 20.04.2022 directed the third respondent to conduct an enquiry under Section 22A of the Registration Act, 1908 and pass orders. However, the third respondent, without even conducting any enquiry, refused to register the documents which were presented for registration. Therefore, the petitioner filed a contempt petition before this Court in Cont.P(MD)No.1666 of 2022 in which this Court, by order dated 21.04.2023, directed the third respondent to pass a speaking order and closed the Contempt



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Petition. Accordingly, the third respondent conducted an enquiry and rejected the request made by the petitioner.

5. On perusal of the records would reveal that admittedly, the Temple is a private Temple belonged to the petitioner's vendors. There is no record to show that the subject property was gifted in favour of the Temple in order to do service to the Temple. The petitioner's vendors ancestors constructed the subject Temple in their own patta land. Further, it is not coming under the purview of the Tamil Nadu Hindu Religious and Charitable Endowments Department, Kanyakumari District. Further, the revenue records also show that the property stands in the name of the Temple and the petitioner's vendors. Further, there is no rival claim from any party in respect of the subject property claimed through the Temple. Unless and until the third respondent has clinching materials to show that the subject property belongs to the Temple, the registration cannot be refused. In view of the above, the order impugned cannot be sustained and the same is liable to be quashed.



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6. Accordingly, the impugned order passed by the third respondent dated 05.07.2023 is quashed. The third respondent is directed to register any documents presented for registration pertaining to the lands comprised in Survey Nos.658/1, 658/3, 658/6, 659/1, 659/2 and 661/2 of Kadukarai, Kattupudur, Azhagiyapandipuram Village, Thovalai Taluk, Kanyakumari District forthwith.

7. With the above direction, this Writ Petition is allowed.

There shall be no order as to costs.

10.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps



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G.K.ILANTHIRAIYAN, J.

ps

Order made in
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