



W.P.(MD)No.27597 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.11.2024

CORAM:

THE HONOURABLE **MR.JUSTICE G.K.ILANTHIRAIYAN**

W.P.(MD)No.27597 of 2024

N.Seik Davood

... Petitioner

/Vs./

- 1.The Assistant Commissioner,
H.R. and C.E. Department,
Nungambakkam High Road,
Chennai 34.
- 2.The Assistant Commissioner,
H.R. and C.E. Department,
Thanjavur.
- 3.Sri Varadharajaperumal Temple,
Represented by the Executive Officer,
Adiramapattinam,
Pattukottai Taluk.
- 4.The Sub – Registrar,
Registration Department,
Adiramapattinam.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 4th respondent to register the



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General Power of Attorney Deed dated 10.07.2024 executed by the petitioner to his wife in respect of lands comprised in Survey No. 12/2A, 12/2B and 13/3 measuring 5.66 Acres, 0.17 cents and 0.15 cents respectively situated in Narasingapuram Village, Adirampattinam, without insisting No Objection Certificate from the 2nd respondent as per proceedings in Vu.Na.Ka.No. 3718/24/E1 dated 30.09.2024.

For Petitioner : Mr.M.R.S.Prabhu

For Respondents : Mr.D.Gandhiraj (R1 & R2)

Special Government Pleader

Mr.V.Chandrasekar (R3)

Mr.M.Sarangan (R4)

Additional Government Pleader

ORDER

This writ petition has been filed for a direction to the 4th respondent to register the General Power of Attorney Deed dated 10.07.2024 executed by the petitioner in favour of his wife in respect of lands comprised in Survey No. 12/2A, 12/2B and 13/3 measuring 5.66 Acres, 0.17 cents and 0.15 cents respectively situated in Narasingapuram Village, Adirampattinam, Pattukottai, Tanjore District.



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2. By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

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

4. The property comprised in Survey Nos. 12/2A, 12/2B and 13/3 measuring 5.66 Acres, 0.17 cents and 0.15 cents respectively situated in Narasingapuram Village, Adirampattinam, Pattukottai, Tanjore District is ryotwari lands as defined under the Estate Land Act. The petitioner's ancestors were ryots in the village and they were entitled for patta, since they were in possession of the subject land and they were also granted patta and the said patta was never challenged by any temple. In turn, the said land was purchased by one Subaida Ammal by the registered sale deed dated 28.04.1997. Subsequently, it was settled in favour of the petitioner and his brother by hiba. In respect of share of the petitioner's brother, his wife was given power to deal with the property. Simultaneously, the petitioner has also executed power of attorney in favour of his wife to deal with his share.



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5. However, the fourth respondent did not even receive the document for registration and informed the petitioner to obtain No Objection Certificate from the second respondent, since the said land belongs to the third respondent. If there is any objection under Section 22A of the Registration Act, 1908, the fourth respondent has to conduct enquiry as directed by the Hon'ble Division Bench of this Court in the case of ***Sudha Ravi Kumar vs. The Special Commissioner & Commissioner, Hindu Religious and Charitable Endowments Department, Chennai***, reported in ***2017 (3) CTC 134*** and the relevant portion of the judgment reads as follows:-

“25. In view of the above discussions, all the writ petitions are allowed and the impugned orders are set aside with the following directions:

(i) The registering authority before whom the document has been presented shall cause service of notice on the parties to the deeds and also to the objector / religious institution, hold summary enquiry, hear the parties and then either register or refuse to register the document by passing an order having regard to the relevant facts as indicated above.

(ii) If the registering authority, refuses to register any document by accepting the objections raised under Section



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22-A of the Registration Act, the aggrieved may file a statutory appeal under the Act.

(iii) If the objections raised under Section 22-A of the Act by the religious institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a writ petition seeking cancellation of the registration or for any other relief or to approach the civil Court for declaration of the title and for other consequential reliefs.

(iv) If the registering authority refuses to register the document acting on the objections raised by a religious institution under Section 22-A of the Registration Act, the parties to the deed will be at liberty to straightaway approach the Civil Court for declaration of title and other relief without availing the opportunity for filing a statutory appeal.

(v) We further direct that if the deed has already been registered without there being any objection by the religious institution under Section 22-A of the Act, the document shall be returned to the parties concerned leaving it open for the religious institution to approach either the High Court under Article 226 of the Constitution of India or the Civil Court for appropriate relief as indicated above. At any rate, the registering authority shall not withhold the deed which has already been registered.

(vi) Consequently the connected miscellaneous petitions are closed. No costs.”



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6. Accordingly, the petitioner is directed to present the power of attorney document dated 10.07.2024 for registration before the fourth respondent and on receipt of the same, the fourth respondent shall issue notice to the petitioner and the third respondent, conduct enquiry and pass orders, on merits and in accordance with law, after affording opportunity of hearing to the petitioner and the third respondent, in the light of the judgment of the Hon'ble Division Bench of this Court, in the case of ***Sudha Ravi Kumar vs. The Special Commissioner & Commissioner, Hindu Religious and Charitable Endowments Department, Chennai***, reported in ***2017 (3) CTC 134***, within a period of two weeks from the date of presentation of the document for registration.

7. With the above direction, this writ petition is disposed of. No costs.

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Index : Yes / No
NCC : Yes / No
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TO:-

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G.K.ILANTHIRAIYAN, J.

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Order made in
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