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W.P.(MD)No.29768 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 31.07.2024

Pronounced on : 11.09.2024

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.29768 of 2023

Ramakrishna Tapovanam
Tiruparaithurai, Tiruchirappalli,
Represented by its Authorised Signatory,
Swami Niyamanandha

... Petitioner

Vs.

1.The District Registrar (Administration),
Periyakulam, Theni District.

2.The Sub Registrar, Chinnamanoor,
Theni District.

3.S.K.Kumaresan, Trustee,
Sri Oonjali Charitable Trust,
Theni.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the first respondent to pass final order on the representation of the petitioner dated 11.11.2022 and reminder dated 05.04.2023.

For Petitioner : Mr.I.Irulappan

For Respondents : Mr.K.Balasubramani,
Special Government Pleader for R1, R2

Mr.S.Rajasekar
for M/s.Lajapathi Roy Associates



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ORDER

Heard both sides.

2.The third respondent herein purchased 2.56.0 hectares of land in various survey numbers in Odaipatti Village from one G.A.Raphal vide sale deed dated 23.02.2015 (D.No.808/2015) on the file of the second respondent. The said G.A.Raphal in turn had purchased the said property from one D.Prasad through his power agent vide sale deed dated 24.07.2013 (D.No.3110/2013). The said Prasad in turn had purchased the property from Shri.Athmananda, the managing trustee of Ramakrishna Shevasramam vide sale deed dated 24.05.2011 vide (D.No.2328 of 2011). The stand of the Ramakrishna Tapovanam (petitioner herein) is that these transactions are null and void. They had submitted a petition before the District Registrar (Administration), Periyakulam in this regard. The petitioner has filed this writ petition either for nullifying the transactions or for directing the first respondent to conclude the enquiry.

3.The basic facts are not in dispute. Shri.Athmanandha is an ordained sanyasi and was originally a part of Sri Ramakrishna Tapovanam/petitioner herein. Later dispute arose between the Tapovanam on the one hand and Shri Athmanandha on the other. The



the properties during his lifetime. However, Swamy Athmanandha made alienations. The question that calls for consideration is whether such alienations are legal and whether such transactions could have been registered. Sri Ramakrishna Tapovanam is technically a registered society. But the properties belonging to it partake the character of trust. They cannot be parted with except in the manner known to law. The Hon'ble Division Bench of the Madras High Court had confirmed the decree vide judgment and decree dated 13.10.1999 passed in favour of Sri Ramakrishna Tapovanam against Swamy Athmanandha, Sri Ramakrishna Ashramam Trust and Sri Ramakrishna Shevashramam Trust. Definite finding was given that whatever was done by Swamy Athmanandha was on behalf of Sri Ramakrishna Tapovanam and the property acquired by him in the name of Sri Ramakrishna Ashramam Trust and Sri Ramakrishna Shevashramam Trust also has to be construed only on behalf of Sri Ramakrishna Tapovanam. This was further confirmed by the Hon'ble Supreme Court of India in Civil Appeal No.2395 of 2000 on 13.04.2005. Article 144 of the Constitution of India states that all authorities, civil and judicial, in the territory of India shall act in aid of the Supreme Court. When the highest court of the land had declared that the subject properties belong to the Tapovanam, it must be given its full effect.



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5. Section 8 of the Transfer of Property Act, 1882 is to the effect that a transfer of property passes forthwith to the transferee all the interest which the transferor is then capable of passing the property and in the legal incidents thereof. Swamy Athmanandha neither in his individual capacity nor in the capacity of trustee of Sri Ramakrishna Shevashramam Trust did have any title to pass in favour of D. Prasad vide sale deed dated 24.05.2011 (D.No.2328 of 2011) on the file of SRO, Chinnamanoor. Therefore, the third respondent herein who is tracing his title to D. Prasad through G.A. Raphal cannot have any title or right over the property. Swamy Athmanandha could not have dealt with the property at all. The resolution dated 25.04.2009 passed by the governing council of Tapovanam was only permissive in character. Title over properties can pass only in the manner known to law. I, therefore, hold that Swamy Athmanandha never acquired any right or title in the property and therefore, the question of he transferring the same could not have arisen. The documents executed by Swamy Athmanandha are null and void. This is because they run counter to the judgment of the Hon'ble Supreme Court of India.

6.A registered document cannot be cancelled by the registering authority. Relief is given to the petitioner by declaring that



the Doc No.808 of 2015 (Sale deed dated 23.02.2015) executed in favour of Sri Oonjali Charitable Trust rep.by its Managing Trustee, Mr.S.K.Kumaresan is null and void. The petitioner is permitted to present this order before the second respondent and the second respondent is directed to register the same thereafter.

7.This writ petition is disposed of on these terms. No costs.

11.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
Skm

To:

- 1.The District Registrar (Administration),
Periyakulam, Theni District.
- 2.The Sub Registrar, Chinnamanoor, Theni District.



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G.R.SWAMINATHAN,J.

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