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W.P.(MD)NO.30045 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.30045 of 2023 AND

W.M.P.(MD)No.25929 of 2023

S.Prabhu

... Petitioner

Vs.

1. The Joint Commissioner / Executive Officer,
Hindu Religious and Charitable Endowments,
Arulmighu Inmaiyl Nanmai Tharuvar Thirukovil,
15, Arisekara Street, West Masi Street,
Madurai – 625 001.

2. The Manager,
Sivagangai Samasthanam Devasthanam,
Sivagangai.

3. The District Registrar,
Registration Department,
Integrated Complex of Registration Department,
TNAU Nagar, Rajakampeeram,
Madurai.

4. The Sub Registrar, Joint-1,
Othakadai Sub Registrar Office,
Integrated Complex of Registration Department,
TNAU Nagar, Rajakampeeram,
Madurai.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the fourth respondent in Na.Ka.No.4280/R1/2023 dated 26.06.2023 and quash the same and



consequently directing the fourth respondent to register the petitioner pending document No.P-55 of 2023 based on the petitioner's representation dated 06.11.2023.

For Petitioner : Mr.Balasundaram,
Senior counsel,
for M/s.R.Pranavi.

For R-1 : Mr.S.Manohar

For R-3 & R-4 : Mrs.D.Farjana Ghoushia,
Special Government Pleader.

* * *

ORDER

Heard the learned Senior counsel appearing for the writ petitioner and the learned counsel appearing for the first respondent and the learned Special Government Pleader appearing for respondents 3 and 4.

2. It is seen that the order impugned in this writ petition was already challenged by the petitioner in WP(MD)No. 24981 of 2023. The said writ petition was disposed of by me on 16.10.2023 in the following terms:

“2. The petitioner wanted to alienate the petition mentioned land. After hearing both sides, the fourth



respondent came to the conclusion that the document cannot be allowed to be registered because it is a Arthajama Kattalai land.

3. According to the learned counsel appearing for the second respondent, without complying with the statutory mandate set out in Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959, alienation cannot be allowed.

4. The learned counsel appearing for the petitioner submits that patta in respect of the petition mentioned land is standing in the name of the petitioner. He also would point out that when the second respondent filed W.P(MD)No.16488 of 2020, it was dismissed by granting liberty to the second respondent to move the jurisdictional civil Court. The learned Standing Counsel appearing for the second respondent would submit that the second respondent has already filed civil suits and that the petition mentioned property is also covered in the suit schedule.

5. In matters such as this, neither the registering authority nor the writ Court would be justified in going into the contentious issues of title. It is civil Court that must render findings as to whether the petition mentioned land is a Kattalai land or not. If already a civil suit has been filed in respect of the petition mentioned land and if the petitioner is not a defendant in the said suit, he can very well get himself impleaded. If he is already a defendant, it is for him to contest the suit. Unless the civil Court determines the



issue, the petitioner will not be entitled to present the document for registration. I make it clear that I have not gone into the merits of the matter. The contentions of the writ petitioner on the one hand and the second respondent on the other are left open.

6. This writ petition is disposed of accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.”

3. The learned Senior Counsel appearing for the petitioner states that the petition mentioned property is not the subject matter of any suit schedule and that the earlier writ petition was disposed of on that impression. If that be so, the remedy open to the petitioner is to apply for review of the order dated 16.10.2023. Filing a second writ petition on the same cause of action is clearly misconceived. Granting liberty to the petitioner to file review petition, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

15.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
PMU



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To:

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G.R.SWAMINATHAN,J.

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