



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-11-2025

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THE HONOURABLE MR.JUSTICE P.B. BALAJI

W.P.No.41090 of 2025

and

WMP.Nos.46053 & 46054 of 2025

C.Nandakumar

...

Petitioner

Vs.

1.The Joint Commissioner,
Hindu Religious & Charitable
Endowments (HR&CE) Department,
Tiruppur – 641 604.

2.Arulmigu Pongaluramman
Called as Neelakandiamman Temple
Represented by its Thakkar/
Executive Officer,
Hindu Religious & Charitable Endowments
(HR&CE) Department,
Tiruppur District.

...

Respondents

PRAYER: The writ petition filed under Article 226 of Constitution of India to issue a writ of certiorari to call for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.No.10361/2023/A4, dated 16.10.2023, as well as the consequential proceedings issued by the 1st respondent in Na.Ka.No.10361/2023/A4, dated 15.07.2025 and to quash the same as arbitrary, illegal and unsustainable in law.

For Petitioner

...

Mr.M.Mahamani

For respondents

...

Mr.N.RR.Arun Natarajan
Spl.Govt.Pleader for (HR&CE)

ORDER



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Heard Mr.M.Mahamani, learned counsel for the petitioner and

Mr.N.RR.Arun Natarajan, Spl.Govt.Pleader for the respondents.

2.The learned counsel for the petitioner states that the petitioner is aggrieved by the communications of the HR & CE department addressed to the Registering Authority to prohibit and not permit registration pertaining to certain Survey Numbers, one of which property along according to the petitioner, belongs to the petitioner. The communications in Na.Ka.No.10361/2023/A4, dated 15.07.2025 and Na.Ka.No.10361/2023/A4, dated 16.10.2023, are under challenge.

3.The learned counsel for the petitioner further states that the proceedings have already attained finality in CMA and now, there has been an attempt to re-agitate the very same issue once again by filing fresh Civil Miscellaneous Appeal proceedings, one by the Department and one by the private respondents. He would further state that the petitioner has been in enjoyment of the property for the past several decades and that under the guise of the impugned communications, the petitioner is prevented from enjoying his property including power of encumbrance/alienation.



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4.Per contra, Mr.N.RR.Arun Natarajan, learned Spl.Govt.Pleader appearing for the respondents department would invite my attention to the Division Bench judgment of this Court in ***Sudha Ravi Kumar Vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department, Chennai – 34 and two others*** reported in ***(2017) 3 CTC 135***, where this court issued certain directions which are extracted for easy reference ;

“ 26. 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 22-A of the Registration Act, the aggrieved may file a



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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 straight away 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.”



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Relying on the Division Bench judgment of this Court, Mr.Arun Natarajan would state that if at all the petitioner intends to encumber the property, then he has to follow the directions issued by the Division Bench of this Court and so far, the petitioner has not made any application to the Sub Registrar as contemplated the directions issued by the Division Bench of this Court at para 26 of the said judgment.

5. I have carefully considered the submissions advanced by the learned counsel on either side.

6.It appears that, as on date, the petitioner has not presented any document for registration with the registering authorities. His only grievance is that, the matter has already attained finality and hence, the petitioner cannot be prohibited from encumbering or alienating the property, which admittedly belongs to him. Under these circumstances, he challenges the communication of the department addressed to the Sub Registrar, Palladam in Na.Ka.No.10361/2023/A4, dated 16.10.2023. Now the petitioner states that in view of the matter having attained finality, the respondents could not have issued the subsequent communication



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Na.Ka.No.10361/2023/A4, dated 15.07.2025, which clearly violates his settled rights.

7.In the light of the ratio laid down by the Hon'ble Division Bench of this Court, I am inclined to dispose of the writ petition in the manner following:

the petitioner intends to encumber or alienate the subject property, then it shall be open to him to make a request to the Sub Registrar concerned, by presenting the document and on such document being presented, the Sub Registrar shall conduct summary enquiry, hear the interested parties and then pass an order either registering the document or refusing to register document. The aggrieved party, whomsoever it may be, shall be bound to follow the other directions issued by the Division Bench of this Court, thereafter.

8.In view of the above, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.



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Index : Yes/No
Internet: Yes/No
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P.B. BALAJI,J.,

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