



W.P.(MD).No.3944 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.03.2025

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.3944 of 2025

J.Ebenezer Sathya Prakash

.. Petitioner

Vs.

1.The Sub-Registrar,
Sankarankovil,
Tenkasi District.

2.Arulmigu Sankaranarayanadaswamy Thirukoil,
Represented by the Assistant Commissioner / Executive Officer,
Sankarankovil,
Tenkasi District.

.. 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 relating to the impugned proceedings of the 1st respondent in RFL/Sankarankoil/111/2024 dated 22.11.2024 and quash the same and further directing the respondent to entertain the sale deed dated 28.01.2025 for registration and consequently to register and release the same.

For Petitioner : Mr.P.Rajesh

For R-1 : Mr.R.Suresh Kumar
Additional Government Pleader

For R-2 : Mr.Rajesh Kumar
for Mr.V.R.Shanmuganathan



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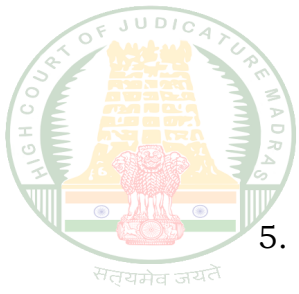
ORDER

This Writ Petition is filed to quash the impugned proceedings of the first respondent in RFL/Sankarankoil/111/2024 dated 22.11.2024.

2. The petitioner's mother one J.Vimala Kantharuby is the owner of a portion of the property situated in Survey No.438/B2A of Kalappakulam Village, Sankarankoil Taluk, Tenkasi District. She had purchased the same on 22.02.2010. The sale was registered in Document No.798/2010. Vimala Kantharuby decided to settle the property in favour of the writ petitioner on 22.11.2024. When the document was presented for registration, the first respondent refused to register the document stating that the second respondent had objected to the same. He issued a refusal check slip. Challenging the same, the present Writ Petition.

3. Mr.R.Suresh Kumar, learned Additional Government Pleader, strongly opposing the Writ Petition, pleads that on account of the objection that had been given by the temple, the Sub Registrar invoked Section 22-A of the Registration Act and refused registration. Therefore, no exception can be taken to the said order.

4. Notice was ordered to the second respondent in the Writ Petition. A counter affidavit has been filed by the second respondent.

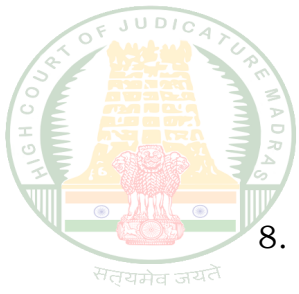


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5. In the counter, it is urged that Survey No.438/B of Kalappakulam Village was 'Manibam' lands given to the second respondent temple for performance of 'Vila pooja' as per T.D.No.196. The counter affidavit further urges that lands given to the pattadhar for doing inam service of pooja cannot be alienated without the permission of the Commissioner under Section 34 of the Hindu Religious and Charitable Endowments Act.

6. It is further pleaded that a priest had alienated such a property and it was a subject matter of a civil suit in Dr.V.Srinivasan Vs. Sri Sankara Narayansamy Devasthanam, Sankarankovil and others. In a judgment passed in S.A.No.652 of 2003 dated 16.07.2022, it was held that service inam holder has got a right of permanent occupancy without the right of alienation. Hence, the second respondent pleads that Section 22-A(1)(ii) of the Registration Act applies and therefore, the refusal check slip is valid.

7. Mr.P.Rajesh, referring to the two judgments of this Court in **S.Ezilarasu Vs. the Sub Registrar and others, W.P.(MD).No.19971 of 2024 dated 16.10.2024** and **M.Ramkumar Vs. the Sub Registrar and another, W.P.(MD).No.8145 of 2024 dated 16.10.2024**, argues that this Court had quashed the proceedings in the above cases as the temple had not substantiated its plea to the property and requests that the same be applied to his case.

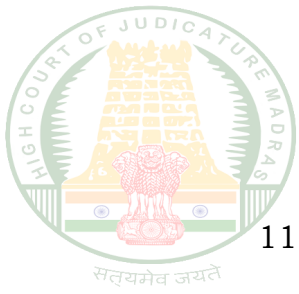


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8. I heard Mr.P.Rajesh for the petitioner, Mr.R.Suresh Kumar, learned Additional Government Pleader for the first respondent and Mr.Rajesh Kumar representing Mr.V.R.Shanmuganathan for the second respondent.

9. A Division Bench of this Court, in ***Sudha Ravikumar and another Vs. Sub Registrar Vs. Special Commissioner and Commissioner of Hindu Religious and Charitable Endowments Department, Chennai and others, 2017 (4) MLJ 445***, had directed that if a religious institution objects to the registration of a document, the Sub Registrar should conduct a summary enquiry and decide whether the temple has a claim or the executant of the document has a title over the same. It was made clear that such a summary enquiry is only for the purpose of registration and it will not affect the right of other parties to approach the Civil Court seeking for declaration of their title and for such other reliefs as they may seek.

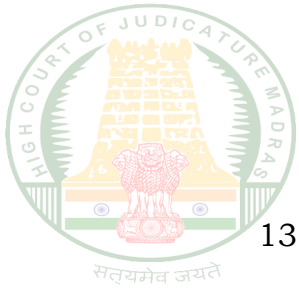
10. In *M.Ram Kumar's* case (cited supra), the subject matter of the property is of the same village. The learned Judge, after referring to the provisions of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act of 1963, came to a conclusion that if the pattadhar fails to render service, it is always open to the religious institution, which has a right over the same, to issue a notice and seek resumption. However, he made it clear that if the service is continuing, the pattadhar is entitled to occupy the land permanently.



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11. In the present case, there has been an alienation earlier in the year 2010 in favour of the petitioner's mother. Today, the mother wants to settle the property in favour of her son. The temple has not produced any evidence before the Sub Registrar to show that it has title to the property. No records had been produced before this Court also to substantiate the said plea. Under Section 22-A(1)(ii), it is not sufficient if a mere objection letter is given by the temple. It has to substantiate its case by producing some *prima facie* material to show that it has a right over the property. That having not done in this case, the impugned order cannot be sustained.

12. In the light of the above discussion, the impugned order is quashed. There shall be a direction to the first respondent to register the settlement deed executed by Vimala Kantharuby in favour of the writ petitioner within a period of two (2) weeks from the date of receipt of a copy of this order. It is made clear that mere registration of a document in favour of the writ petitioner does not mean he has got title to the property. If the temple is able to prove its title in a regularly instituted civil suit, registration of the document will not stand in its way. Furthermore, as pleaded by Mr.Rajesh Kumar for the second respondent, if this is a service inam property, the temple always has a right to resume the land after following the proper procedures.



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13. With the above observations, the Writ Petition stands allowed.

There shall be no order as to costs.

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28.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm

To
The Sub-Registrar,
Sankarankovil,
Tenkasi District.



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V.LAKSHMINARAYANAN,J.

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