



W.A.(MD)No.1539 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2025

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.A(MD)No.1539 of 2021

and

C.M.P(MD)Nos.6322 of 2021 & 3405 of 2025

The Joint Commissioner,
Hindu Religious and Charitable
Endowment Department,
Sivagangai.

... Appellant /
2nd Respondent

Vs.

1.K.Mayilvel

... 1st Respondent /
Petitioner

2.The Sub Registrar,
Thiruppuvanam Sub Registrar Office,
Thiruppuvanam,
Sivagangai District.

... 2nd Respondent /
1st Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 22.03.2021 passed by this Court in W.P(MD)No.19280 of 2019.



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For Appellant : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.K.S.Selvaganesan
Additional Government Pleader

For Respondents : Mr.V.Ramakrishnan for R.1

Mr.S.RA.Ramachandran
Additional Government Pleader
for R.2

Mr.S.Madhavan
for Impleading Petitioner

JUDGMENT

(Judgment of the Court was made by G.R.Swaminathan J.)

Heard both sides.

2.The writ petitioner Thiru.K.Mayilvel executed sale deed dated 13.08.2018 in favour of one Mohammed Muthu conveying 1744½ sq.feet of land in Survey No.101/3A1, Thirubuvanam. The document was presented for registration. At this stage, objection was received from the HR&CE Department and an individual by name Sengaimaran also lodged his objections. Thereupon, the Sub Registrar, Thirubuvanam declined to register the document. Aggrieved by the same, the purchaser



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Mohammed Muthu filed an appeal before the District Registrar, Sivagangai. The appellate authority vide order dated 26.02.2019 disposed of the appeal with the observation that the land in question had been charged with performance of water charity and that therefore permitting registration of such a document would be contrary to public policy. In that view of the matter, the appellate authority declined to issue any direction for registering the document. Thereafter, the parties, namely, Mayilvel and Mohammed Muthu redrafted the sale deed by incorporating a recital of charge. A fresh sale deed dated 20.06.2019 was presented for registration. The registering authority once again declined to register the document and issued refusal check slip dated 19.06.2019. The registering authority called upon the parties to obtain No Objection Certificate from the HR&CE Department. Challenging the stand of the registering authority, Mayilvel filed W.P(MD)No.19280 of 2019. The said writ petition was allowed vide order dated 22.03.2021 in the following terms:

“22.This Court in the final consideration is of the view that as observed in the earlier paragraphs of this order, no amount of objections from the second respondent department would sway the case against the petitioner as on date as the only objection the second respondent could have at best is the water charity work



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attached to the property that too if the charity is to be continued as a religious edict and beyond that this Court does not think that the second respondent can have any say in the property owned by the petitioner. This Court having considered the fact and the petitioner also having incorporated necessary recitals in obligating the transferee to carry on the charitable objective as endowed in the property, it is not open to the first respondent to refuse to register the document on that ground, in the facts and circumstances of this case.

23.For all the above said reasons, the impugned endorsement dated 20.06.2019 made in the receipt for registration in Receipt No.2354/2019 and Document No.P/Thiruppuvanam/127/2019 by the first respondent is hereby set aside. The first respondent is directed to register the document presented by the petitioner namely the sale deed dated 20.06.2019 if the document is otherwise in order and release the document to the petitioner on registration of the same.

24.The first respondent is directed to complete the registration within a period of four weeks from the date of receipt of a copy of this order.”

Aggrieved by the same, the second respondent in the writ petition, namely, the Joint commissioner, HR&CE Department, Sivagangai filed this Writ Appeal.



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3.The learned Additional Advocate General reiterated all the contentions set out in the memorandum of grounds of Writ Appeal and called upon this Court to set aside the order passed by the learned single Judge and allow the Writ Appeal as prayed for.

4.The learned counsel for the writ petitioner pointed out that pursuant to the direction given by the learned single Judge, the document in question had already been registered and released. He pointed out that the purchaser is not a party to these proceedings. He also submitted that the appellant not having filed any counter before the writ Court cannot be permitted to urge any point on facts. He also seriously opposed the petition for impleading filed by Sivagangai Devasthanam. According to the learned counsel for the writ petitioner, there is nothing on record to show that the property in question had been endowed for a religious institution. According to him, at best a charge had been created and the purchaser is obliged to fulfil the terms of the charge. If at all, the objectors have to go to the civil Court. It is particularly so because writ petitioner Mayilvel is very much having patta in his favour. It is relevant to note that his predecessors were given patta under the The Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963.



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5.The learned counsel appearing for the impleading petitioner argued that as per the revenue record, Survey No.101/3, Thirubuhavanam stands only in the name of a water charity (Thanner Panthal). According to him, vide Document No.231/1969, this land was specifically endowed in favour of a religious institution.

6.We carefully considered the rival contentions and went through the evidence on record.

7.The Hon'ble Division Bench in the decision reported in **2017 (3) CTC 135 (Sudha Ravi Kumar & Others Vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department and Others)** had held that whenever any objection is received from a religious institution, a particular procedure has to be adopted by the registering authority. The directions laid down by the Hon'ble Division Bench are as follows:

"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



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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 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



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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."

8. In the case on hand, the HR&CE Department had lodged their objection. But neither the registering authority nor the appellate authority held any enquiry as laid down in ***Sudha Ravi Kumar*** case. We are therefore of the view that the learned single Judge should have set aside the refusal check slip issued by the registering authority and remanded the matter for fresh consideration. A direction for registering the document could not have been issued. We are therefore obliged to interfere. Since it is brought to our notice that the document has since been registered and released, further transactions will not be entertained by the registering authority and the rights of the parties would abide by the outcome of the enquiry that is to be conducted in terms of ***Sudha Ravi Kumar*** direction.



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9.In this view of the matter, the order passed by the learned single Judge is set aside. The matter is remitted to the file of the second respondent herein. The second respondent will issue notices to the purchaser Mohammed Muthu, the vendor K.Mayilvel, the appellant herein as well as the impleading petitioner. During the enquiry, the parties herein will be permitted to place their respective cases before the registering authority. The registering authority shall conclude the enquiry and pass a speaking order within a period of four months from the date of receipt of a copy of this order. Thereafter, it is for the parties to workout their rights in the manner laid down in ***Sudha Ravi Kumar*** decision. We make it clear that we have not gone into the merits of the matter. The contentions of all the parties are left open.

10.This Writ Appeal is allowed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

[G.R.S., J.] [M.J.R., J.]
18.03.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN,J.

AND

M.JOTHIRAMAN, J.

MGA

To

The Sub Registrar,
Thiruppuvanam Sub Registrar Office,
Thiruppuvanam,
Sivagangai District.

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