



W.P.(MD) No.14697 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.14697 of 2022

and

W.M.P.(MD) Nos.10487 and 10488 of 2022

1.Arulmigu Sri Kannika Parameswari
Amman Temple,
Rep., by its Managing Trustee,
M.T.Rangan,
Having Office at 11th Ward,
Devaram Panchayat Union,
Uthamapalayam Taluk, Theni District,
Residing at Door No.169, Bazaar Street,
Thevaram, Theni District.

2.L.S.Sakthivel

.. Petitioners

Vs.

1.The Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
Nungambakkam, Chennai.

2.The Joint Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
Dindigul.



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3. The Assistant Commissioner,
Tamil Nadu Hindu Religious and
Charitable Endowment Department,
Theni.

4. The Sub-Registrar,
Devaram,
Theni District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of 3rd respondent in letter dated 28.03.2022 in proceedings Na.Ka.No.1314/2022-2/A3, quash the same as same arbitrary, ultravires, contrary to Article 26 of Constitution of India, in colorable exercise of power and consequentially direct the 4th respondent to register the document presented by the petitioner in respect of the property to an extent of 2628³/₄ sq. feet comprised in S.No.642/3, Thevaram Village, Periakulam Sub District, Theni District.

For Petitioners : Mr.R.G.Shankar Ganesh

For Respondents : Mr.P.Subbaraj
Special Government Pleader

ORDER

The challenge in the writ petition is to an order of rejection of request of the petitioners for issuance of No Objection Certificate by the third respondent.



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2. The case of the petitioners is that the property was owned by the first petitioner-temple which had been declared as a denomination temple by a judgment of the decree of the Sub-Court, Dindigul in O.S.No.190 of 1977. The temple had sold an extent of 2 acres and 52 cents in favour of five persons by a registered sale deed dated 16.04.2010 under Document No.1016 of 2010. The sale proceeds were deposited in the account of the temple and the same is being utilised for the management and administration of the temple till date. Out of the extent sold by the temple, the first petitioner had purchased a smaller extent of land measuring about 2628³/₄ sq. ft. under Document No.2828/2010, dated 14.10.2010 from the purchasers of the land. When he had approached the fourth respondent herein for executing a sale deed in favour of the proposed purchaser, the fourth respondent had required the first petitioner to get a No Objection Certificate (NOC) from the Hindu Religious and Charitable Endowments (HR & CE) Department. Hence, he had taken out an application with the Commissioner, HR & CE seeking for an NOC which seems to have been forwarded to the third



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respondent herein and the third respondent had rejected the claim made by the first petitioner for grant of NOC. Hence, being aggrieved against the same, the petitioners have approached this Court, who would pray this Court to set aside the order made by the third respondent and to consequently direct the fourth respondent to register the document that is presented by them.

3. On the other hand, the learned Special Government Pleader appearing on behalf of the respondents would contend that admittedly, the lands belonged to the temple and they have been sold by the temple without obtaining the permission of the temple authority under the HR & CE Act. He would further submit that even though the temple had been declared as a denomination temple, the supervision of the temple by the HR & CE cannot be excluded. Hence, he would submit that there is no infirmity in the order passed by the third respondent.

4. I have heard the submissions made by the learned counsel on either side.



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5. It is to be noted that the temple has sold the lands as early as in the year 2010 to five individuals, who in turn, have sold the lands in favour of various persons. It is the case of the first petitioner that the lands were sold only for the benefit of the temple and the sale consideration had also been deposited into the account of the temple and only from the revenue arising out of the said deposit, the temple is being maintained.

6. Be that as it may, Section 22A of the Registration Act, 1908 indicates that when a document is presented for registration and if it is found that the property under the document is covered under Section 22A, then it is the duty of the Registering Authority to issue notice to such claimants of the land and conduct an independent enquiry and thereafter, pass orders on merits and in accordance with law. Even though the first petitioner had not challenged such order of refusal, it is incumbent upon the Registering Authority *viz.*, the fourth respondent to follow the provisions of Section 22A of the Registration Act. In such event, without entering upon the merits of the case raised by the



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petitioners and the respondents, the writ petition is disposed of with a direction to the fourth respondent to exercise his powers under Section 22A of the Registration Act, when the petitioners approach him for registration of the document, if the property that is sought to be conveyed under the said document would attract the provisions of Section 22A of the Registration. It is made clear that the fourth respondent shall not be bound by the order made by the third respondent, which is impugned in this writ petition and shall pass orders on the claim of the petitioners and any other interested persons on its own merits and in accordance with law.

7. With the aforesaid directions, these Writ Petitions stand disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

22.01.2025

NCC : Yes/No

Index : Yes/No

Internet : Yes

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K.KUMARESH BABU, J.

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