

HR & CE Department

From

Thiru. J. Kumaragurubaran, I.A.S.,
Commissioner
Chennai - 34

To

1. All Joint Commissioners
2. All Joint Commissioner /
Executive Officers
3. All Deputy Commissioner /
Executive Officers
4. All Assistant Commissioners
5. All Assistant Commissioner
/ Executive Officers

Rc.No.67705/2007/M3, dated, 19.07.2021

Sub: Fraudulent registrations - Temple lands - Recovery of immovable properties - Appropriate legal action as specified in the Registration Act, 1908 - Instructions given - Reg.

Ref:

1. Orders of the Hon'ble High Court of Madras in Contempt Petition No.1331 of 2019
2. Letter No.41530/U1/2017, dated 08.11.2017
3. Letter No.41530/U1/2017, dated 31.07.2018
4. Orders of the Hon'ble Madurai Bench of Madras High Court in WP (MD) No.10177 of 2021

I am to inform that the Hon'ble High Court of Madras has directed the HR & CE Department to take necessary steps to recover the properties of Shri Agatheeswarar Temple, Nungambakkam. 79 grounds of land were sold by the erstwhile Trustees under Section 9 of the Madras City Tenants Protection Act, 1921 and 28 grounds were sold under Section 34 of the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. The Hon'ble High Court has been informed that the documents pertaining to some of the lands sold by the erstwhile Trustees has been obtained and further action to set aside the decrees would be taken in future.

On hearing the above, the Hon'ble High Court has noted that in most cases pertaining to temples under the administration of the HR & CE Department, the officials concerned have been negligent in preserving the temple properties and in taking measures to recover such properties even where they have been unauthorizedly transferred to others.

The Hon'ble High Court has also directed the Commissioner, HR & CE Department to file an updated status report, which should clearly indicate the total extent of land originally owned by the temple, the total extent of land currently in possession of the temple and the measures to recover the land that have been unlawfully transferred by the erstwhile trustees. The Court has also directed to furnish the supporting documents to establish that the temple is in the possession of the said lands.

Vide reference 2nd cited above, the Inspector General of Registration has issued Circular instructions prescribing the mandatory procedure to deal with the complaints relating to the fraudulent registrations due to the non-adherence of the various safeguards stipulated in the Circulars issued by the IG, Registration for preventing the fraudulent registration. In this procedure the District Registrar (Admin) has been directed to receive petitions from the aggrieved parties and conduct an enquiry and pass a speaking order by way of proceedings and the same shall have to be communicated to the petitioner through RPAD.

Vide reference 3rd cited above, the IG, Registration has issued Circular instructions wherein the District Registrars were directed to do the following:

- (a) If fraudulent registration is proved, apart from directing the registering officers to file police complaints against the fraudsters, specific orders to be passed directing the registering officers for making entry in the relevant indexes and also in the copies of documents. The entry in index (ii) shall be made as "The registration of document is found as fraudulent vide proceedings of the District Registrar (Proceeding No. and date to be noted) due to ----- (the findings to be given briefly)". The same note has to be made as a footnote in the relevant copies of documents filed and to be signed by the Registering Officer. If it is scanned document, then the note has to be made in the separate white paper, signed by the Registering Officer and to be linked to the main document.
- (b) District Registrars in his/her proceedings should direct the Registering Officers that no registration of documents should be done based on the fraudulent document as declared by the District Registrar. But, the genuine owner of the property in

question should be allowed to proceed with further registration irrespective of the occurrence of the fraudulent registration with respect to the said property.

Vide reference 4th cited, the Hon'ble Madurai Bench of Madras High Court has upheld the validity of the Circular issued by the IG, Registration, vide reference 3rd cited. In the said order under para 12 & 13 the Hon'ble High Court has observed as follows,

12. It is clear from the above circular that the order passed by the Competent authority declaring a transaction to be a fraudulent one and where such order has become final, necessary entry has to be made in index. That apart, a footnote must also be made in the relevant copies of the documents. This safeguard is being given only to ensure that an innocent 3rd party should be made aware that such an order has been passed and that he is not misled to enter into a transaction with regard to a document, which has held to be a fraudulent one. This procedure will at least save time of the real owner of the property, who need not unnecessarily knock the doors of Civil Court.

13. It is made clear that this procedure must be scrupulously followed in all cases, where the transaction has been declared to be a fraudulent one by the competent authority and such order has become final. The Inspector General of Registration shall refer to this order and the issue a Circular to all the Sub-registrar officers across Tamil Nadu and direct them to strictly follow the directions issued in the earlier circular dated 31.07.2018.

In pursuant to the above instructions of the Hon'ble High Court, the following instructions are hereby issued:

- (i) From the above, it is very clear that the religious institution shall approach the District Registrar (Admin) for conducting an inquiry under Section 68(2) of the Registration Act, 1908, if in case any property belonging to the religious institution has been transacted / registered fraudulently.
- (ii) Hence, if it has come to the knowledge of the Trustees / Executive Officers that any document has been transacted / registered fraudulently, involving temple properties, the competent authorities (Trustees / Executive Officers) shall

immediately file a complaint to the District Registrar (Admin) concerned seeking to conduct an inquiry as prescribed by the IG, Registration, vide reference 2nd and 3rd cited. An action taken report shall also be submitted to the Head Office immediately.

- (iii) Instructions as given above are to be adopted by the Trustees / Executive Officers scrupulously and deviation or dereliction of duty will be viewed very seriously, and appropriate Disciplinary action will be taken against the erring Trustees / Executive officers.
- (iv) Regional Joint Commissioners and Divisional Assistant Commissioners are directed to circulate these instructions to the Trustees / Executive Officers concerned and acknowledgement shall be obtained from them and the same shall be communicated to Head Office for information and record.

This should be treated as **Most Urgent**.


19/7/21
COMMISSIONER