

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE

AND

The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

W.P.No.23316 of 2014

1.Syed Mushtaq
2.Wahida Banu .. Petitioners

-vs-

- 1.Union of India,
rep. by the Secretary to Government,
Ministry of Minorities Affairs,
Government of India,
New Delhi.
- 2.The Tamil Nadu Wakf Board,
rep. by its Secretary,
No.1, Jafferserang Street,
Seethakathi Nagar,
Mannadi,
Chennai-600 001.
- 3.The Amirunisa Begum Sahiba's Endowments,
No.165, Bharathi Salai,
Chennai-600 005,
rep. by its Secretary.

4.Yousuf Gulam Mohamed

5.Abdul Khader

- 6.The Sub Registrar,
Bharathi Salai,
Triplicane,
Chennai-600 005. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration declaring Section 51 (1-A) and Section 52A of the Wakf Act, 1995 as void and of no effect and consequently set aside the order passed by the 2nd respondent in Na.Ka.No.5686/11/Aa6/Chennai dated 24.01.2014, direct the 6th respondent to register and release the Sale Deed dated 16.12.2010 presented for registration and kept pending as Pending Document No.20100 P119 Book 1, direct respondents 2 and 3 to grant lease of 792 $\frac{3}{4}$ Square Feet of land at No.53, Lathuram Street, Anna Salai, Chennai-600 002 in favour of the petitioners.

For Petitioner : Ms.V.S.Manimegalai

For Respondents : Mr.B.Rabu Manohar

SPCCG for R1

Mr.V.Lakshminarayanan for R2

Mr.Asif Ali for R3

Mr.V.R.Kamalanathan

Addl. G.P. for R6

No Appearance for R4 & R5

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ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The learned counsel for the petitioner states that challenge was laid to the newly introduced sub-section (1-A) of Section 51 of the Wakf Act, 1995 (hereinafter referred to "the said Act"), but in view of the stand of the first respondent in the counter-affidavit that the same would not affect the superstructure, the challenge which remains is to the impugned order on merits.

2. The aforesaid would normally require us to place the matter before the learned Single Judge, but, then there is appellate remedy provided to the Wakf Tribunal under Section 83(2) of the said Act. Thus, we suggested to the learned counsel for the petitioner that it would be appropriate to withdraw the present petition and avail of the appellate remedy, to which the learned counsel is agreeable. The learned counsel for the petitioner has also made an endorsement to that effect.

3. We, thus, grant liberty to the petitioner to file an appeal in accordance with law before the Wakf Tribunal within two weeks of the receipt of the order.

4. The writ petition is dismissed with the aforesaid liberty. No costs.

-s/d-
Assistant Registrar(CSII)
dt:30/9/2015

True Copy

Sub-Assistant Registrar

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To

1.The Secretary to Government,
Ministry of Minorities Affairs,
Government of India,
New Delhi.

2.The Sub Registrar,
Bharathi Salai,
Triplicane,
Chennai-600 005.

3.The Secretary,
TamilNadu Wakf Board,
No.1, Jafferserang Street,
Seethakathi Nagar,
Mannadi,
Chennai-600 001.

+1 cc to M/S.B.Rabu Manohar Advocate sr.51365

सत्यमेव जयते

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