

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2016

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

W.P.No.29280 of 2014

1.S. Devaki
2.S.Jaishankar

.. Petitioners

Vs.

1.Union of India
Represented by the Secretary to
Government
Ministry of Minorities Affairs
Government of India
New Delhi.

2.The Tamil Nadu Wakf Board
represented by its Secretary
No.1, Jafferseerang Street
Seethakathi Nagar
Mannadi
Chennai-1.

3.The Amirunisa Begum Sahiba's Endowments
represented by its Secretary
No.165, Bharathi Salai
Chennai-5.

4.The Sub Registrar
Bharathi Salai
Triplicane
Chennai-5.

.. Respondents

The writ petition is filed to issue a writ of mandamus, directing the second respondent to issue a No Objection Certificate for registration of the settlement deed, dated 28.9.2007 kept as pending Document No.105 of 2007 on the file of the fourth respondent.

For Petitioner : M/s.V.Selvaraj
For Respondent No.1: Mr.Su.Srinivasan, ASG I

For Respondent No.2 : Mr.H. Yasmeen Ali
For Respondent No.3 : Mr. Asif Ali

ORDER

Heard the learned counsel, appearing on behalf of the petitioners, as well as the learned counsels, appearing on behalf of the respondents.

2. This writ petition has been filed, praying that this Court may be pleased to issue a Writ of Mandamus, directing the second respondent to issue a 'No Objection Certificate' for the registration of the settlement deed, dated 28.9.2007, which has been kept as pending Document No.105 of 2007, on the file of the fourth respondent.

3. The learned counsel, appearing for the petitioners has submitted that a request has been made to the third respondent, for the issuance of a 'No Objection Certificate', for registering the settlement deed, settling the superstructure built upon the Wakf land, situated at No.37, Lathuram Street, Mount Road, Chennai.

4. It has been stated that the first petitioner had settled the superstructure in favour of her son, namely, M.S. Jaishankar, who is the second petitioner herein, and the settlement deed is pending registration on the file of the Sub Registrar, Triplicane, for the production of a 'No Objection Certificate', from the Tamil Nadu Wakf Board.

5. The learned counsel had further submitted that the third respondent had addressed a letter to the Chief Executive Officer, Tamil Nadu Wakf Board, for the issuance of a 'No Objection Certificate', on 27.6.2014. However, no action had been taken, by the second respondent, Wakf Board, on the said letter of the third respondent.

6. The learned counsel, appearing on behalf of the second respondent Wakf Board, had submitted that, as per the provisions of Section 104-A of The Waqf Act, 1995, which was inserted by Act 27 of 2013, and came into force from 1.11.2013, there is a prohibition with regard to the sale, gift, exchange, mortgage or transfer of movable or immovable Wakf property.

7. However, the learned counsel, appearing on behalf of the petitioners had submitted that provisions of the said Section would not apply to the superstructure constructed by the first petitioner.

8. In such circumstances, this Court finds it appropriate to direct the second respondent Wakf Board, to consider the letter of the third respondent, dated 27.6.2014, and pass appropriate orders thereon, after giving an opportunity of hearing to the petitioners and the third respondent, as well as to the other persons concerned, if any, on merits and in accordance with law, as expeditiously as possible. The petitioners and the third respondent shall furnish a copy of the letter, dated 27.6.2014, to the second respondent, along with a copy of this order. However, it is made clear that this Court has not expressed any opinion on the merits of the matter, by passing this order.

9. The writ petition is disposed of, with the above directions. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

rnb

To

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

2.The Sub Registrar,
Bharathi Slai,
Triplicane,
Chennai-5.

+1cc to the Government Pleader sr.49316

W.P.No.29280 of 2014

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srg 30/09/2016