IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24-07-2018

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17286 of 2014
And
W.M.P.No.6254 of 2017

Tmt.Ayesha Rizwana .. Petitioner

-vs-

1.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Sarang Street,
Vallal Seethakadhi Nagar,
Chennai-1.

2.The Inspector of Wakfs,
Tamil Nadu Wakf Board,
No.12, Kilothar Street,
Trichy-2.

3.The Sub-Registrar of Registration,
Valigandapuram,
Veppanthattai Taluk,
Perambalur District. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to Check Slip No.1/2014 issued by the third respondent and quash the same and further directing the third respondent to register the Agreement of Sale dated 21.4.2014 relating to lands in Survey Nos.204/4, 205/6, 205/7A and 205/8 of Valigandapuram Village, Veppanthattai Taluk, Permbalur District.

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For Petitioner - Mr.S.Kamadevan

For Respondents-1&2 - Mr.V.Raghavachari

For Respondent-3 - Mr.P.Purushothaman,
Government Advocate.

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ORDER

The relief sought for in this writ petition is to call for the Check Slip No.1/2014, issued by the third respondent and direct the third respondent to register the Agreement of Sale dated 21.4.2014 in relation to the lands in Survey Nos.204/4, 205/6, 205/7A and 205/8 of Valigandapuram Village, Veppanthattai Taluk, Permbalur District.

2. The grievance of the writ petitioner is that the third respondent/Sub-Registrar of Registration Department, Valigandapuram, Veppanthattai Taluk, Perambalur District, declined to entertain the registration of an instrument submitted by the writ petitioner to register the Agreement of Sale dated 21.4.2014 in respect of an immovable property.

3. Challenging the same, the learned counsel, appearing on behalf of the writ petitioner, contended that the third respondent/Sub-Registrar of Registration Department has no authority to decline the registration under the provisions of the Registration Act. All the documents produced for registration must be registered and the third respondent/Sub-Registrar has no authority to reject or decline any such registration at all.

4. However, the learned Government Advocate, appearing on behalf of the official respondent, state that the document was declined on account of the fact that there was an objection from the Wakf Board in respect of such registration. In the event of any such objection from the Wakf Board or any other Religious Institutions, then the Registering Authority has no authority to register the same.

5. The learned counsel, appearing on behalf of the Wakf Board, also states that the property in question belongs to the Wakf Board and the writ petitioner has no authority to encumber or register the Agreement of Sale in respect of the property belongs to the Wakf Board. The Wakf Board also sent objection to the third respondent/Sub-Registrar for registering any such Wakf property, which is described in the present writ petition.

6. The legal principles, in this regard, are settled by the Hon'ble Division Bench of this Court in the case of Sudha Ravi Kumar and Another vs. The Special Commissioner and Commissioner, HR&CE [2017 (3) CTC 135], wherein in paragraph-25, it has been held as follows:-

> "25. In view of the above discussions, all the writ petitions are allowed and the impugned orders are set aside with the following directions:

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(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 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 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."

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7. In paragraph-25, sub-clause (iv) of the judgment of the Hon'ble Division Bench of this Court, cited supra, categorically enumerates that in the event of any objection from the Religious Institutions under Section 22-A of the Registration Act, then the respective parties have to approach the competent Civil Court of Law to establish their title, ownership or possession in respect of the immovable property. Thus, the Registering Authority cannot register any instrument in the event of any objection from the Religious Institutions. This being the legal principles settled, it is left open to the respective parties to approach the competent Civil Court of Law for establishing their title, ownership or possession in respect of the property in question.

8. In this view of the matter, the relief, as such, sought for by the writ petitioner in this writ petition, cannot be granted. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

Svn
To
1.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Sarang Street,
Vallal Seethakadhi Nagar,
Chennai-1.
2.The Inspector of Wakfs,
Tamil Nadu Wakf Board,
No.12, Kilothar Street,Trichy-2.
3.The Sub-Registrar of Registration,
Valigandapuram,
Veppanthattai Taluk,
Perambalur District.
+ 1 cc to Mr. S. Kamadevan, Advocate SR.49705
+ 1 cc to Mr. V. Raghavachari, Advocate Sr.49632
+ 1 cc to Mr.Government Pleader Sr.50352

WP 17286 of 2014

(CS-IX)
EU(02/08/2018)

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