

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2020

CORAM :

The HON'BLE MR.JUSTICE M.DURAIWAMY

W.P.No.12521 of 2011 and
M.P.No.1 of 2011

T. A. Hassain Basha ... Petitioner

v.

- 1.The Tamil Nadu Wakf Board,
Rep. By its Chief Executive Officer,
No.1 Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 1.
2. The District Registrar,
Vellore.
3. The Sub Registrar,
Katpadi, Vellore District.
4. The Joint Registrar-II,
Vellore.
5. T.M. Munavar Sherif
6. K. Kumar
7. K. Sathya ... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuing a Writ of Mandamus, forbearing the respondents 2 to 4 from registering any document pertaining to the wakf properties comprised in S.Nos.193, 196, 197, 198, 201, 205 and 206 in Thiruvalam, Katpadi Taluk, Vellore District ad measuring 10-14-0 hectare attached to Thiruvalam Masjid & burial Ground Wakf at Thiruvalam Village, Kadpadi Taluk, Vellore District without the NOC from the 1st respondent Wakf Board.

For Petitioners : Mr.A.Nissar Ahamed

For Respondents : Mr.S.Haja Mohideen Gisthi- for R1

Mr.B.Kannan, Govt. Advocate - for R2 to R4
No Appearance - for R5 to R7

O R D E R

The petitioner has filed the above Writ Petition to issue a Writ of Mandamus, forbearing the respondents 2 to 4 from registering any document pertaining to the Wakf properties comprised in S.Nos.193, 196, 197, 198, 201, 205 and 206 in Thiruvallam, Katpadi Taluk, Vellore District measuring an extent of 10-14-0 hectare attached to Thiruvallam Masjid and burial ground Wakf at Thiruvallam Village, Kadpadi Taluk, Vellore District without the No Objection Certificate from the 1st respondent, viz., Wakf Board.

2. It is the case of the petitioner that the Muthawalli, viz., 5th respondent, is trying to sell the Wakf property to some third parties without obtaining the No Objection Certificate from the Wakf Board. That apart, Mr.A.Nissar Ahamed, learned counsel appearing for the petitioner submitted that as per section 22 of the Registration Act, the Sub Registrar cannot register the property belonging to the Wakf.

3. Mr.S.Haja Mohideen Gisthi, learned counsel appearing for the 1st respondent also admitted that the respondents 2 to 4 cannot register the document pertaining to the Wakf. The learned counsel also submitted that in the case of property belonging to the Wakf, the remedy open to the petitioner is only to approach the Wakf Tribunal and not under Article 226 of the Constitution.

4. Mr.B.Kannan, learned Government Advocate, appearing for the respondents 2 to 4 submitted that the 2nd respondent may be directed to conduct an enquiry to find out whether prima facie the property is Wakf property or not.

5. It is settled position that the District Registrar cannot decide the title of the property. However, to ascertain whether the property is Wakf property or not he can conduct an enquiry. In such view of the matter, I direct the 2nd respondent to conduct an enquiry to find out whether the property sought to be registered by the 5th respondent is a Wakf property and in the case of the 2nd respondent comes to the conclusion that the property is a Wakf property, in such case, the remedy open to the petitioner is to approach the Wakf Tribunal. In the case of the District Registrar finding that the property sought to be registered is not a Wakf property, in such case, he may register the document, if it is otherwise in order.

With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

Rj

To

1. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1 Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 1.
2. The District Registrar,
Vellore.
3. The Sub Registrar,
Katpadi, Vellore District.
4. The Joint Registrar-II,
Vellore.

+1cc to Government Pleader, High Court, Madras SR.No.25282

W.P.No.12521 of 2011 and
M.P.No.1 of 2011

MP (CO)
GMY (03/08/2020)

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