



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2021

CORAM

THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

WP.Nos.3581 & 3744 of 2021

WP.No.3581 of 2021

M/s.Ramco Super Leathers Limited,
Represented by its Director,
S.Palaniappan,S/o.Sethuraman,
Sethu House,
No.28, Dr.Alagappa Road,
Chennai 600 084

...

Petitioner

Vs

1.The Inspector General of Registration,
Santhome High Road,
Chennai 600 004

2.The District Registrar,
Office of the District Registrar,
Vellore District,
Vellore 632 001

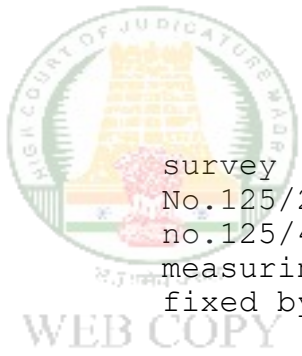
3.The Joint Sub Registrar-II,
Office of the Joint Sub Registrar-II,
Vellore 632 001

4.The Chief Executive Officer,
The Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallall Seethakathi Nagar,
Chennai 600 001

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Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to impugned check slip in No.09/2020 dated 17.12.2020 of the third respondent and quash the same as illegal and consequently direct the third respondent to register the deed of power of attorney dated 15.12.2020 presented by the petitioner in application No.TP/98444588/2020-21 (D321) and indented sale deeds/conveyance deeds in respect of the land situated at Karugamputhur Village, Vellore District in



survey No.125/2A (now sub-divided assigned new survey No.125/2A2) measuring 3 acres and 15 cents and in survey no.125/4D (now sub-divided assigned new survey No.125/4D2) measuring 27 cents without insisting NOC within the time frame fixed by this Court.

WP.No.3744 of 2021

M/s.Ramco Super Leathers Limited,
Represented by its Director,
S.Palaniappan,
Sethu House,
No.28, Dr.Alagappa Road,
Chennai 600 084

...

Petitioner

Vs

1.The Inspector General of Registration,
Santhome High Road,
Chennai 600 004

2.The District Registrar,
Office of the District Registrar,
Vellore District,
Vellore 632 001

3.The Joint Sub Registrar-II(Incharge),
Office of the Joint Sub Registrar-II,
Vellore 632 001

4.The Chief Executive Officer,
The Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallall Seethakathi Nagar,
Chennai 600 001

...

Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to impugned check slip in No.10/2020 dated 17.12.2020 of the third respondent and quash the same as illegal and consequently direct the third respondent to register the deed of power of attorney dated 15.12.2020 presented by the petitioner in application No.TP/98464299/2020 (22D322) and indented sale deeds/conveyance deeds in respect of the plots owned by the petitioner at Karugamputhur Village, Vellore District in survey No.125/2A (now sub-divided assigned new survey No.125/2A2) measuring in total 48708 sq.ft. without insisting NOC within the time frame fixed by this Court.



For Petitioner
in both W.P.'s : Mr.L.Abdul Basith

For Respondents
in both W.P.'s

For R1 to 3 : Mr.Yogesh Kannadasan,
Special Government Pleader

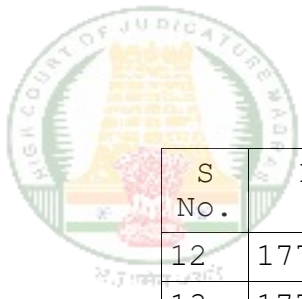
For R4 : Mr.Mohammed Aseef

COMMON ORDER

The writ petitions are filed to issue a Writ of Certiorarified Mandamus calling for the records relating to impugned check slips in No.09 & 10/2020 dated 17.12.2020 of the third respondent and quash the same as illegal and consequently direct the third respondent to register the deed of power of attorney dated 15.12.2020 presented by the petitioner and indented sale deeds/conveyance deeds in respect of the plots owned by the petitioner.

2. The case of the petitioners is that the petitioner in WP.No.3581 of 2021 purchased the property comprised in survey No.125/2A2, admeasuring 3 acres and 15 cents and in survey No.125/4D2 admeasuring 27 cents by registered sale deeds vide document Nos.1329 and 1453 of 1993 and the petitioner in WP.No.3744 of 2021 purchased the land comprised in survey No.125/2A2 admeasuring 48708 sq.ft. in by various registered sale deeds as follows:

S No.	Document No.	Plot No.	Survey Number	Sub divided as	Sq.ft.
1	1141/1993	41 42	125/2A	125/2A2	2400 2400
2	1142/1993	43	125/2A	125/2A2	2400
3	1287/1993	70 72	125/2A	125/2A2	2760 3060
4	1392/1993	57	125/2A	125/2A2	1800
5	1518/1993	22	125/2A	125/2A2	1250
6	1532/1993	21	125/2A	125/2A2	1250
7	1533/1993	40	125/2A	125/2A2	1250
8	1536/1993	39	125/2A	125/2A2	1250
9	1537/1993	38	125/2A	125/2A2	1250
10	1538/1993	19	125/2A	125/2A2	1250
11	1539/1993	18	125/2A	125/2A2	1250



S No.	Document No.	Plot No.	Survey Number	Sub divided as	Sq.ft.
12	1771/1993	33	125/2A	125/2A2	1250
13	1772/1993	34 35	125/2A	125/2A2	1500 1500
14	2200/1993	20	125/2A	125/2A2	1250
15	2608/1993	37	125/2A	125/2A2	1250
16	2609/1993	23	125/2A	125/2A2	1250
17	2789/1993	74 75	125/2A	125/2A2	3360 3674
18	2790/1993	8	125/2A	125/2A2	1244
19	3202/1993	24	125/2A	125/2A2	1250
20	3288/1993	36	125/2A	125/2A2	1250
21	4339/1993	7	125/2A	125/2A2	1560
22	479/1994	55 56	125/2A	125/2A2	2400 2400
	Total				48708

Thereafter, the petitioner decided to sale those lands and executed power of attorney in favour of one, Kumarappan to execute sale deed in favour of intended purchasers on 15.12.2020 and presented for registration on 17.12.2020. However, the third respondent issued the impugned check slips dated 17.12.2020 for the reason that the fourth respondent raised objections as if the subject property belongs to the Tamilnadu Wakf Board.

3. The learned counsel for the petitioner would submit that the subject properties are private properties and they never belonged to the fourth respondent. In fact, the petitioner produced related documents to show that the subject properties are private properties. In fact, the fourth respondent as well as the petitioner's vendors filed suit before the civil court and obtained decree in favour of the petitioner's vendors in respect of the subject properties. On the strength of the civil court decrees, the fourth respondent passed resolution dated 18.08.2015, thereby decided to resolve that the subject properties are not wakf property and that it is only personal inam in favour of individuals and inherited by them as successor who has got every legal title over the subject property. Therefore, the fourth respondent by its proceedings unanimously resolved that the properties comprised in survey Nos.125/1, 125/2, 125/4, 141/1A and 141/3 situated at Hajipura, Karugamputhur Village, Vellore District are not wakf properties and they are only personal properties of the private owners and



as such question of issuance of No Objection Certificate by the fourth respondent over the private property does not arise. However, the fourth respondent i.e. Chief Executive Officer represented the Tamil Nadu Wakf Board, raised objections against their own resolution before the third respondent alleging that the subject properties belong to the fourth respondent. Though the petitioner produced all the civil court decrees and order passed by the fourth respondent dated 18.08.2015, the third respondent without considering the same, mechanically passed the impugned check slips, thereby refused to register the power of attorney executed by the petitioner.

4. Heard, Mr.L.Abdul Basith, the learned counsel for the petitioner, Mr.Yogesh Kannadasan, Special Government Pleader appearing for the respondents 1 to 3, and Mr.Mohammed Aseef, the learned counsel for the fourth respondent.

5. On perusal of the counter filed by the fourth respondent, revealed that the subject properties belong to the Hajipura, Haji Abdullah Sha Khadiri Tomb and Kabrasthan Wakf, Karugamputhur, Vellore District and it is under supervisory control of the fourth respondent. Purchase of the said properties by the petitioner is violative of the provisions under Section 51 sub-clause 1(A) and also Section 104A of Wakf Act, 1995, which prohibits sale, gift, exchange, mortgage or transfer of wakf properties to any person. Once the properties are dedicated for religious purpose and reflected in the proforma of the said wakf, it is wakf property and any dispute over the wakf properties has to be decided by the wakf Tribunal and shall be final, unless it is revoked or modified by the Tribunal. Further revealed that the fourth respondent Board passed resolution dated 18.08.2015 by following the civil court decrees, but in proforma report it is clearly reflected that it is the wakf property. Therefore, the contention of the petitioner that the subject properties are private property is not valid and the third respondent rightly refused to register the power of attorney executed by the petitioner.

6. Whereas on perusal of the counter filed by the third respondent, revealed that while presenting the power of attorney document for registration, the petitioner also enclosed registered sale deeds, pattas and resolution passed by the fourth respondent as subject properties are private properties and no need to issue No Objection Certificate for registration of any deed of conveyance. Further revealed from the letter dated 13.10.2020 submitted by the fourth respondent, the subject land belongs to Haji Abdullah Shah Kadhiri and Kabarsthan Wakf notified under the Gazatte in serial No.350/N.A and hence requested the third respondent not to register any document conferring the subject properties until clearance is issued by



the fourth respondent. Therefore, the power of attorney was returned with the impugned check slips, thereby refused to register the said documents. Under Section 22(A)(iv) of the Registration Act provides that the Registering Officer shall refuse to register any document relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease of wakfs which are under the superintendence of the Tamilnadu Wakf Board. Therefore, the third respondent issued the impugned check slips and refused to register the power of attorney document on perusal of the documents as stated supra.

7. By order dated 18.08.2015, the fourth respondent resolved as follows:

"Therefore taking all the circumstances into consideration and that in view of the over whelming documentary evidence and innumerable judgments of the civil courts upholding the right of the petitioner over these properties, this Board is of the unanimous view that the petitioner herein has established that the petition mentioned properties is not wakf property at all. But it is the absolute property of the petitioner's ancestors commencing Haji Abdullah Sha Khaderi from the 17th century having been gifted by the Nawab Abdullah Khan of Vellore Fort has personal inam. Hence, the properties described in the annexure of the proforma of Haji Abdullah Sha Khaderi Tomb and Kabrasthan Wakf in Survey no.125/1, 125/2, 125/4 and 141/1A and 141/3 in Hajipura, Karugamputhur Village, Vellore District are not wakf properties and that it is only a personal inam in favour of the individuals and inherited by the petitioner as a successor who has got every legal title over this property. Hence in view of the fact that since the Tamil Nadu Wakf Board by its proceedings unanimously resolved that the properties in Survey No.125/1, 125/2, 125/4 and 141/1A and 141/3 in Hajipura, Karugamputhur Village, Vellore District are not wakf properties and they are only the personal properties of the petitioner, the question of issuing a No Objection Certificate by this Board over a private property does not arise."

Accordingly, the fourth respondent resolved that the subject properties are not wakf properties on the basis of the civil court decrees.

8. On perusal of the judgment and decrees passed in OS.Nos.942 of 1967 and 996 of 1967, 1117 of 1967 and 1156 of 1967 by the common judgment and decree dated 12.03.1969 on the file of the Additional District Munsif, Vellore filed by the



fourth respondent in respect of very same subject property were dismissed and confirmed in the appeal suits in AS.Nos.207, 208, 209, 332 and 347 of 1970 on the file of the District Judge of North Arcot at Vellore by the judgment and decree dated 25.02.1970 filed as against the vendors of the petitioners. Thereafter, the petitioner's vendor filed S.T.Appeal No.3 of 1972 and this Court by order dated 24.09.1974, directed the Tahsildar to issue patta in respect of the subject property in favour of the petitioner's vendor. Even thereafter, private persons disturbed the possession and enjoyment of the subject property and aggrieved by the same, the petitioner's vendor again filed suit in OS.No.229 of 1975 and the same was decreed in favour of the petitioner's vendor by judgment and decree dated 29.09.1979 and confirmed by this Court in SA.No.1766 of 1990 dated 03.07.2002. Therefore, the fourth respondent cannot have any objection to deal with the property by the petitioner.

9. In view of the above, the impugned check slips cannot be sustained and liable to be set aside. Accordingly, the impugned check slips in Nos.09 & 10/2020 dated 17.12.2020 of the third respondent are set aside. The petitioner is directed to represent the power of attorney dated 15.12.2020 and on receipt of the same, the third respondent is directed to register and release the same forthwith.

10. With the above directions, both the writ petitions are allowed. No order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Inspector General of Registration,
Santhome High Road,
Chennai 600 004
- 2.The District Registrar,
Office of the District Registrar,
Vellore District,
Vellore 632 001
- 3.The Joint Sub Registrar-II,
Office of the Joint Sub Registrar-II,
Vellore 632 001



4.The Chief Executive Officer,
The Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallall Seethakathi Nagar,
Chennai 600 001

+2cc to Mr.I.Abdul Basith, Advocate, S.R.No.61589, 61590
(08/12/2021)

+1cc to Special Government Pleader, S.R.No.61922

WP.Nos.3581 & 3744 of 2021

RP(CO)
CB(07/12/2021)