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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

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THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.33722 of 2019

S.Md.Nazar

...Petitioner

Vs

1. The Inspector General of Registration,
Santhome High Road, Chennai-4
2. The Joint I Sub Registrar,
North Chennai,
Chennai 600 001
3. The Sub Registrar,
Chennai North,
Chennai
4. The Tamilnadu Wakf Board,
Rep. by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai-1
5. Secretary Edgah Mosque Charities,
No.8, Angappa Naicken Street,
Chennai 600 001

...Respondents

PRAYER:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus directing the respondents to register and return the document being the sale deed bearing Doc.No.P 43 of 2009 to the petitioner without insisting upon any No Objection Certificate.

For Petitioner : Mr.V.Raghupathi

For Respondents

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

For R4 : Mr.V.Lakshminarayanan

For R5 : Mr.N.A.Nissar Ahmed



ORDER

The writ petition is filed to issue a Writ of Mandamus directing the respondents to register and return the document being the sale deed bearing Doc.No.P43 of 2009 to the petitioner without insisting upon any No Objection Certificate.

2. The case of the petitioner is that the petitioner purchased the superstructure in the property comprised in door No.28, Ibrahim Sahib 2nd Street, Kulla Sandhu, Seethakathi Nagar, Chennai together with leasehold rights in the land belongs to the fifth respondent herein to an extent of 475 sq.ft. The sale deed was presented for registration before the third respondent and the same had been kept pending as pending document No.P43/2009. In fact, by proceedings dated 21.12.2010, the fifth respondent issued no objection certificate for sale of the superstructure to the petitioner along with leasehold rights in the land belongs to the fifth respondent. However, the second respondent by the communication dated 03.01.2011 to the fourth respondent, thereby sought for clarification that whether the document may be registered or not. Thereafter, the petitioner filed writ petition before this Court in WP.No.33767 of 2012 and the same was dismissed as withdrawn for the reason that the petitioner did not implead the fifth respondent as party.

3. The learned counsel for the petitioner submitted that when there is objection raised by the religious institution under Section 22A of the Registration Act, the Hon'ble Division Bench of this Court issued certain directions in batch of writ petitions in the case of WP.No.30589 of 2013 etc, batch dated 05.04.2017.

4. It is relevant to extract the directions issued by the Hon'ble Division Bench of this Court in the above case 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:

(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



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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.

5. The fifth respondent filed counter and revealed that the fifth respondent issued notice dated 21.12.2010 was valid only upto 31.01.2011. The said No Objection Certificate is also subject to the approval of the fourth respondent. That apart, after amendment of the Wakf Act, even Wakf Board cannot grant permission for sale.

6. Considering the above, the third respondent is directed to conduct enquiry under Section 22(A) of the Registration Act as directed by the Hon'ble Division Bench of this Court in the above case after issuing notice to the petitioner and the fourth and fifth respondents and giving them opportunity of hearing and pass orders to register the sale deed which was presented for registration and kept as pending document No.P43/2009 within a period of twelve weeks from the date of receipt of copy of this order.



7. With the above direction, this writ petition is disposed of. No order as to costs.

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Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,
Santhome High Road, Chennai-4
2. The Joint I Sub Registrar,
North Chennai,
Chennai 600 001
3. The Sub Registrar,
Chennai North,
Chennai
4. The Chief Executive Officer,
Tamilnadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai-1

+1cc to M/s.N.A.Nissar Ahmed, Advocate, S.R.No.62775
+1cc to M/s.V.Raghupathi, Advocate, S.R.No.62248
+1cc to the Government Pleader, S.R.No.62995

W.P.No.33722 of 2019

PL(CO)
RGA(16/12/2021)