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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

WRIT PETITION NO.5035 OF 2015

1. Ummu Salma Beevi

2. Mahnoor Hameedunnisa

3. Rabiyyathal Adhaviya

... Petitioners

.Vs.

1. The District Collector,
Cuddalore District,
Cuddalore.

2. The Inspector General of Registration,
Chennai - 600 028.

3. The Sub-Registrar,
Parangipettai - 608 502,
Cuddalore District.

4. The Tahsildar,
Chidambaram,
Cuddalore District.

5. The Superintendent of Wakfs,
O/o.Noor Mohamed Sha Aulia Dargah,
512, Gandhi Road,
Panruti, Cuddalore District.

... Respondents

[R5 is impleaded as per order dated
18.12.2015 by MMSJ in M.P.No.1 of 2015
in W.P.No.5035 of 2015]

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 3rd respondent to register the documents of sale, relating to the landed properties in S.Nos.115/4, 173/2, 171/1 and 172 in Ariyagoshti Village, Chidambaram Taluk, Cuddalore District.



For Petitioners : Mr.M.Ravi

For Respondents : Mr.R.Kumaravel
Additional Government Pleader

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O R D E R

Writ Petition is filed directing the 3rd respondent to register the documents of sale, relating to the landed properties in S.Nos.115/4, 173/2, 171/1 and 172 in Ariyagoshti Village, Chidambaram Taluk, Cuddalore District.

2. According to the petitioners, the 3rd petitioner purchased the property in S.No.115/4 measuring 11 acres 30 cents for a sale consideration of Rs.23,730/- and the 2nd petitioner purchased the properties in Survey No.171/1 measuring 1 acre 19 cents, S.No.173/2 measuring 3 acres 72 cents, S.No.172 measuring 6 acres and 7 cents (totally 10 acres 98 cents), for a sale consideration of Rs.23,058/-, in Ariyagoshti Village, Chidambaram Taluk, Cuddalore District, from G.Mohammed Ali Maraicar and six others, by two registered sale deeds dated 15.04.1978. On 11.09.2003, the petitioners executed power of attorney appointing one K.Bavasahib Maraicar as their agent to form a lay out of house plots in the lands in S.No.115/4 - 11 acres 30 cents, S.No.171/1 - 1 acre 19 cents, S.No.173/2 - 3 acres 72 cents, S.No.172 - 6 acres and 7 cents (totally 10 acres 98 cents) along with certain other lands. The said K.Bavasahib Maraicar submitted an application dated 26.09.2013 to the Director of Town and Country Planning, Chennai, to permit him to form a lay out consisting of 716 house plots in the lands in S.Nos.115/1, 2, 3, 4C; 170/5, 171/1, 2A, 2B; 172, 173/2 and 167/1 (in all 46 acres 26 cents) in Ariyagoshti Village, Kalima Bhavasa Nagar lay out and the same was approved by the proceedings dated 26.04.2004 in approval No.85/2004. After approval, several house plots were sold to third parties. When some of the purchasers wanted to sell the plots and presented the sale deed in the office of 3rd respondent, the 3rd respondent refused to register the sale deed relying on the letter dated 28.12.2007 of the Wakf Superintendent, Cuddalore Zone, Panruti, 5th respondent herein.

3. The learned counsel appearing for the petitioners submitted that properties in question absolutely belong to the petitioners. After forming lay out, they sold several plots to third parties. The Wakf is not owner of the properties. Their name is not shown in the T.D. Register and village accounts. The



learned counsel for the petitioner further submitted that even after letter of the 5th respondent, Wakf Superintendent dated 28.12.2007, the 3rd respondent registered several documents up to 2011. The 3rd respondent refused to register the documents submitted by the petitioners and also the documents submitted by the purchasers to sell the property purchased from the petitioners. The 3rd respondent, in violation of Section 71 of the Registration Act, refused to register the sale deed and failed to give reason in writing for not registering the documents submitted. If the 3rd respondent issued orders in writing, the petitioners will file an appeal before the authorities. In view of inaction of the 3rd respondent, the purchasers of plots are insisting the petitioners to get the order, failing which, they will initiate proceedings against the petitioners. In such circumstances, the petitioners have come out with the present Writ Petition for the above stated relief.

4. The 3rd respondent filed counter affidavit and admitted that even in the village accounts, there is no mention that the property in question belongs to the Wakf Board and also admitted that in view of letter of the 5th respondent dated 28.12.2007, he has not registered the sale deed. The 3rd respondent submitted that executant did not seek for order in writing and hence, no order was passed and prayed for dismissal of the Writ Petition.

5. The 4th respondent filed counter affidavit and submitted that as per the revenue records, the following properties situate at Ariyagoshti Village, Chidambaram Taluk, Cuddalore District, stand in the name of the persons including the petitioners:

Survey No.115/4A	-	U.Sheik Mohamed
Survey No.115/4B	-	P.Umsalma Meevi (1) Hamidhunnisa (2) Mahamed Nachi (3)
Survey No.115/4C	-	P.Umarsalma Hamidhunnisa
Survey No.173/2	-	K.Hamidhunnisa Beevi
Survey No.171/1	-	K.Hamidhunnisa Beevi
Survey No.172	-	K.Umsalma Beevi and five others

The 4th respondent also stated that chitta and adangal stand in the name of the petitioners and others, there is no record to



4. The Tahsildar,
Chidambaram,
Cuddalore District.

5. Superintendent of Wakfs,
O/o.Noor Mohamed Sha Aulia Dargah,
512, Gandhi Road,
Panruti, Cuddalore District.

+1cc to the Government Pleader, S.R.No.26756

W.P.NO.5035 OF 2015

MT (CO)
PBS/10/05/2022