



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.12774 of 2019

A.Palani

Represented by Power Agent

K.Saravasan

... Petitioner

-Vs-

1. The District Registrar,
Office of District Registrar,
Vellore.

2. The Sub Registrar,
Office of Sub-Registrar,
Registrar office in Arcot,
Vellore.

3. The Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai 600 001.

... Respondents

Prayer :- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the second respondent to Register the Deed of Sale, Lease, Mortgage presented by the Writ Petitioner for alienating the property at Plot No.3 situated in S.No.76/4A at Rasathupuram Village, Wallajah Taluk.

For Petitioner : Mr.T.S.Baskaran

For R1 & R2 : Mr.Yogesh Kannadasan
Special Government Pleader

For R3 : Mr.Mohammad Fiyaz Ali

ORDER

This Writ Petition has been filed for the issuance of Writ of Mandamus, directing the second respondent to



Register the Deed of Sale, Lease, Mortgage presented by the Writ Petitioner for alienating the property at Plot No.3 situated in S.No.76/4A at Rasathupuram Village, Wallajah Taluk.

2. Heard Mr.T.S.Baskaran, learned counsel appearing for the petitioner, Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 1 and 2 and Mr.Mohammad Fiyaz Ali learned counsel appearing for the third respondent.

3. The case of the petitioner is that the petitioner owned a property comprised in Survey No.76/4, New Survey No.76/4A of an extent of 1382.1/2 sq.ft (128.49 sq.mt) situated at Rasathupuram Village, Wallajah Taluk. It was originally owned by the petitioner's father one Arumugha Gounder. After the demise of the petitioner's father, the legal heirs partitioned the property by the registered Partitioned Deed, dated 06.01.1997, registered vide Document No.569. The petitioner was allotted the land comprised in Survey No.76/8 ad-measuring 0.13.0 ares and in Survey No.76/4, ad-measuring 0.13.5 Ares. Thereafter, the petitioner was also issued with Patta under Patta No.60. The petitioner had formed a lay-out and separated the property into house plots and also sold out some of the house plots to various third parties. With respect to unsold plot in Plot 3, the petitioner executed a General Power of Attorney, registered, vide Document No.206 of 2010. Based on the Power of Attorney, the power holders also sold some of the house plots in favour of the third parties. When the power holders intended to sell the remaining unsold house plot in Plot No.3, the 3rd respondent by letter dated 29.10.2012, requested the 2nd respondent not to entertain any type of alienation in respect of the subject property. When the power holders approached the 2nd respondent to deal with the remaining house plot comprised in Plot No.3, it is learnt that the subject property cannot be dealt with due to the objections raised by the 3rd respondent.

4. A perusal of the counter affidavit filed by the 3rd respondent, reveals that the land comprised in S.No.76 ad-measuring 6.42 acres situated at Rasathupuram Village, Wallajah Taluk, along with other property, have been surveyed and notified as "Wakf" by the then Government of Madras under the Wakf Act, 1954. Therefore, the petitioner will not be conferred with any title over the subject property comprised in Survey No.76/4A. The previous transactions are void without any prior sanction from the Wakf Board, as provided under Section 51 of the Wakf Act, 1995. Therefore, the 3rd respondent submitted those objections before the 2nd respondent. On a perusal of the records, it also revealed that, on receipt of the objections



raised by the 3rd respondent, the matter is pending, without passing any final orders.

5. Considering the above facts and circumstances, the 2nd respondent is directed to issue fresh notice to the petitioner and the 3rd respondent and conduct enquiry on the objections raised by the 3rd respondent and after giving an opportunity of hearing, pass orders either to deal with the subject property or not, within a period of eight weeks from the date of receipt of a copy of this order.

6. With the above directions, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

Mn

To

1. The District Registrar,
Office of District Registrar,
Vellore.
2. The Sub Registrar,
Office of Sub-Registrar,
Registrar office in Arcot,
Vellore.
3. The Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai 600 001.

+1cc to Mr.T.S.Baskaran, Advocate SR.No.7043

+1cc to the Government Pleader SR.No.7728

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JP II(CO)
GN(09/03/2022)