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W.P.No.24832 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2022

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.24832 of 2022

S.Santhi
Petitioner

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Versus

1.The Sub Registrar
Sub Registrar Office
Gingee

2.The District Registrar
63/A, Perumal Koil Street
Murungapakkam
Tindivanam

3.The Inspector General of Registration
Santhome High Road
Chennai – 600 004

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorarified Mandamus, calling for the records pertaining to the impugned order dated 28.07.2022 passed by the 1st respondent, quash the same and consequently, direct the 1st respondent to register and return the Sale Deed dated 06.07.2022 within a specified time frame and without insisting for a “No Objection Certificate” from the Waqf Board/Authorities.

For petitioner : Mr.S.Aravindan

For Respondents : Ms.D.Ravichander
Special Government Pleader



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ORDER

The writ petition has been filed challenging the order dated 28.07.2022 passed by the 1st respondent, quash the same and consequently, direct the 1st respondent to register and return the Sale Deed dated 06.07.2022 within a specified time frame and without insisting for a No Objection Certificate from the Waqf Board/Authorities.

2. The learned counsel for the petitioner submitted that the petitioner purchased a land bearing survey No.68/3 and 68/4 admeasuring to a total extent of 0.53 cents situated at Krishnapuram Village, Gingee Town Panchayat, Tindivanam District vide Sale Deed dated 06.07.2022. When the same was presented before the first respondent, the first respondent refused to entertain stating that the subject property comes under Waqf Board and passed the impugned order.

3. The learned Special Government Pleader submitted that admittedly the property in SF.No.68/3 and 68/4 belongs to notified Wakf and further, the Wakf is not arrayed as party in this petition. In the absence of the owner, the petitioner is trying to obtain an order in their favour, which is against law. The learned counsel brought to the notice of this Court that the issue raised in this



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writ petition is no longer *res integra* as the same stands settled by the Hon'ble

Division Bench of this Court reported in **2017 (3) CTC 135 (Sudha Ravi Kumar and others Vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department, Chennai-34 and others)**

wherein this Court has categorically held that the registering authority before whom the document has been presented shall cause service of notice on the parties to the deeds and also to objector/religious institution, hold summary enquiry hear the parties and then either register or refuse to order having regard to the relevant facts as indicated above. In view of the above, this Court may issue a direction to the respondents to conduct enquiry and pass appropriate orders.

4. Heard the learned counsel on either side and perused the materials available on record.

5. Considering such circumstances, issuing affirmative direction in favour of the petitioner does not arise and on the earlier occasion, the very same issue was considered by this Court reported in **2017 (3) CTC 135**. On a perusal of the said judgment referred by the learned counsel, this Court feels that when the property allegedly belongs to the public institution, the Registering Authorities have to necessarily conduct an enquiry in respect of the subject properties after



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serving notice to the necessary parties.

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6. In view of the above, this Court directs the first respondent to conduct enquiry and pass appropriate orders on merits, after providing opportunity of personal hearing to the petitioner as well as the notified Wakf and also the Wakf Board, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the above direction, the writ petition is disposed of. There shall be no order as to costs.

15.09.2022

Index : Yes/No
Internet: Yes/No
Speaking Order : Yes/No
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M.DHANDAPANI, J.



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To
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