



WEB COPY



1

W.P.No.28027 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.11.2022

CORAM:

THE HONOURABLE MR. JUSTICE **M.DHANDAPANI**

W.P.No.28027 of 2022

and

W.M.P.Nos.27319, 27320 & 27322 of 2022

A.Najmudeen

... Petitioner

Vs.

1. The Chief Executive Officer/Estate Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Backside of Customs House, Chennai 1.

2. The Sub Registrar,
Papanasam, Thanjavur.

3. The District Registrar,
Office of the District Registrar,
Kumbakonam.

4. The Inspector General of Registration,
Santhome High Road, Chennai.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for records of the first respondent dated 21/2/22 in RC.786/2022/B7/Tnj in so far as Serial No.68 Survey No.60/4, Pandaravadai Village, Papanasam Taluk, Thanjavur District is concerned and the consequential refusal order



dated 13/9/22 in refusal No.RFL Papanasam/82/2022 passed by the second respondent and consequently direct the respondents 2 to 4 to register documents in S.No.60/4, Pandaravadai Village, Papanasam Taluk, Thanjavur District without insisting upon No Objection certificate from Tamil Nadu Wakf Board by virtue of order dated 9/12/1976 made in S.A.No.863/1974.

For Petitioner : M/S.N.A.Nissar Ahmed
For R1 : Mr.Haja Mohideen Gisthi
For R2 to R4 : Mr. G.Krishna Raja
Additional Government Pleader

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for records of the first respondent dated 21/2/22 in RC.786/2022/B7/Tnj in so far as Serial No.68 Survey No.60/4, Pandaravadai Village, Papanasam Taluk, Thanjavur District is concerned and the consequential refusal order dated 13/9/22 in refusal No.RFL Papanasam/82/2022 passed by the second respondent and consequently direct the respondents 2 to 4 to register documents in S.No.60/4, Pandaravadai Village, Papanasam Taluk, Thanjavur District without insisting upon No Objection certificate from Tamil Nadu Wakf Board by virtue of order dated 9/12/1976 made in S.A.No.863/1974.

2. The case of the petitioner is that, the petitioner is concerned



WEB COPY

with S.No.60/4 Pandaravadai Village, Papanasam Taluk, Thanjavur District, which is not a Wakf property. Infact the Wakf Board had filed a Suit in O.S.No.465 of 1968 before the District Munsif Court, Valangaiman at Kumbakonam against one Abdul Kareem for declaration that the property in aforesaid survey number is a Wakf property and for recovery of possession. The said Suit culminated in S.A.No.863 of 1974 before this Court, wherein this Court allowed the second appeal with cost throughout and dismissed the suit filed by the Wakf Board by Judgment and Decree dated 09.12.1976, and the said judgment has become final. In view of the above title and decree granted in favour of the petitioner, the petitioner presented the sale deed before the respondents for registration. However, the said document was refused to be registered by the second respondent, vide impugned refusal check slip dated 13.09.2022. Challenging the same, the petitioner had filed the present Writ Petition.

3. The learned counsel for the petitioner submitted that, admittedly the Wakf Board had filed Suit in O.S.No.465 of 1968 before the District Munsif Court, Valangaiman, Kumbakonam for declaration of the Wakf's title for an extent of 41 ½ cents of land out of 1.16 acres of land comprised in Survey No.60/4 of Pandaravadai Village, Papanasam



WEB COPY

Taluk, and the same was dismissed. Thereafter, the appeal suit was filed in A.S.No.75 of 1971 which confirmed the decree in the Suit and as against the concurrent findings, the petitioner's grandfather preferred Second Appeal before this Court in S.A.No.863 of 1974, and this Court allowed the Second Appeal vide judgment and decree dated 09.12.1976 and thereafter no further appeal was preferred before the Apex Court. Hence, the order of this Court has become final. Accordingly, the petitioner's grandfather is entitled to hold the land in S.No.60/4, but registration of the deed was refused to be entertained by the second respondent. Accordingly, he prayed for allowing this Writ Petition.

4. The learned Standing Counsel appearing for the Wakf Board/first respondent produced proforma before this Court and he vehemently contented that as per the proforma, the property in S.No.60/4 belongs to Wakf Board and the same is notified in the proforma. Further, he submitted that the petitioner, if it all had any grievance in respect of the aforesaid property, the petitioner has to prefer an appeal under Section 84 of the Registration Act. Instead of preferring appeal before the Wakf Tribunal under Section 84 of the Act, the petitioner filed the present Writ

Petition is not sustainable. Accordingly, he prayed for dismissal of the



Writ Petition.

WEB COPY

5. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the materials available on record.

6. The facts in the present case are not in dispute. Admittedly, Suit in O.S.No.465 of 1968 before the District Munsif Court, Valangaiman, Kumbakonam filed by the Wakf was decreed in favour of the Wakf Board, as against which, the Appeal Suit was filed in A.S.No.75 of 1971 before the Sub Court, Kumbakonam, which confirmed the order in the Suit. As against the concurrent findings, the Second Appeal in S.A.No.863 of 1974 filed before this Court, and this Court allowed the second appeal in favour of the petitioner's grandfather, which has not been appealed against.

7. In view of the undisputed fact, even if the aforesaid property is notified in the proforma produced before this Court, it does not mean that the Wakf Board is entitled to be the absolute owner of the aforesaid property when the very same property was allowed in favour of the



petitioner's grandfather, by virtue of the decree granted in S.A.No.863 of 1974. Hence, there is no legal impediment to entertain the document filed by the petitioner.

8. Accordingly, the Writ Petition is allowed and impugned order is set-aside, and the second respondent is directed to entertain the document presented by the petitioner for registration upon payment of necessary stamp duty and registration charges. No costs. Consequently, the connected Miscellaneous Petitions are closed.

16.11.2022

Speaking Order : Yes/ No

Internet: Yes/ No

jd



To

WEB COPY

1. The Chief Executive Officer/Estate Officer,
Tami Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Backside of Customs House, Chennai 1.
2. The Sub Registrar,
Papanasam, Thanjavur.
3. The District Registrar,
Office of the District Registrar,
Kumbakonam.
4. The Inspector General of Registration,
Santhome High Road, Chennai.



WEB COPY



8

W.P.No.28027 of 2022

M.DHANDAPANI, J.

jd

W.P.No.28027 of 2022

16.11.2022