



WEB COPY



W.P. No.28297 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.10.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No. 28640 of 2022
and
W.M.P.Nos.27920 and 27921 of 2022

1. Ummu Salma Beevi

2. Mahnoor Hameedunnisa

3. Rabiyyathal Adhaviya

... Petitioners

Vs.

1 . The District Collector,
Cuddalore District, Cuddalore

2. The Inspector Genral of Registration,
Chennai – 600 028.

3. The Sub Registrar,
Parangipettai – 608 502.

4. The Tahsildar,
Chidambaram, Cuddalore District.

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

6. The Chief Executive Officer,
Tamilnadu State WaKF Board,
Safdarjung Road, Mannady, Chennai.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the 6th Respondent in R.C.No.786/2022/B6/Cudd dated 03.01.2022 (signed on 05.01.2022) to the limited extent of S.Nos.115/4,173/2,171/1 and 172 and the consequential refusal check slip proceedings RFL/Parangipettai/36/2022 dated 20.05.2022 issued by the 3rd respondent quash the same and direct the 3rd respondent to register the documents of sale, mortgage and settlement relating to the landed properties in S.Nos 115/4,173/2,171/1 and 172 in Ariyagoshti Village, Chidambaram Taluk, Cuddalore District and pass orders.

For Petitioner : Mr. M. Ravi

For Respondents : Mr.G. Krishna Raja

ORDER

By consent of both the parties this writ petition is taken up disposal at the admission stage itself.

2. It is the case of the petitioners they are the absolute owners of the properties situated in Survey Nos. 171/1, 172, 115/4C and 173/2 in Ariyagoshti Village and when they attempted to sell the same to some third parties and presented the sale instruments before the third respondent for registration, the same was refused vide RFL/PARangipettai/36/2022 dated



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20.05.2022 on the ground that the said Survey Numbers are Wakf Properties and registration thereof is opposed to public policy as contemplated under Section 22 of the Registration Act and as per Notification issued by Government of Tamil Nadu under Section 22-A of the said Act, in G.O.Ms.No.150, Commercial Taxes(J2) Department, dated 22.09.2000 and in the absence of 'No objection Certificate ' being produced from the Tamil Nadu Wakf Board. Challenging the same the petitioners have filed the present writ petition before this Court.

3. Learned counsel for the petitioners submitted that the refusal order issued by the 3rd respondent is not in accordance with law. Further, the learned counsel brought to the notice of this Court that the issue raised in this 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



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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. Learned Special Government Pleader has no objection in respect of the submission made by the learned counsel for the petitioners.

5. On perusal of records reveals the fact that the respondent refused to register the document in view of the letter dated R.C.No.786/2022/B6/Cudd issued by the fifth respondent. However there is no record to show that the properties in question belong to Walf Board. When this being the case, the refusal order passed by the respondent is not sustainable one.

6. In view of the above, this Court directs the third respondent to conduct enquiry and pass appropriate orders on merits, after providing opportunity of personal hearing to the Petitioners 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.



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7. With the above directions, the writ petition is disposed of.

Consequently, connected miscellaneous petition are also closed. There shall be no order as to costs.

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Index : Yes / No
Speaking order : Yes / No
smn

To

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M.DHANDAPANI, J.

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