



WEB COPY



W.P.No.28241 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2022

CORAM

**THE HON'BLE MR.JUSTICE M.DHANDAPANI**

W.P.No.28241 of 2022

R.Perumal  
Petitioner

..

Versus

1.The Inspector General of Registration  
No.100, Santhome High Road  
Chennai – 600 028

2. The District Registrar (Admin)  
Cuddalore District

3.The Joint -I, Sub Registrar  
Cuddalore, Cuddalore District

4.The Assistant Director  
District Town and Country Planning  
Pudhupalayam, Cuddalore

5. Tamil Nadu Wakf Board  
Rep by its Chief Executive Officer  
No.1, Jaffer Syrang Street  
Vallal Seethakathi Nagar  
Chennai – 600 001

... Respondents

**Prayer:** Petition filed under Article 226 of the Constitution of India, for issuance of Writs of Certiorarified Mandamus, calling for the records in RFL/1 Joint – I, Sub-Registrar, Cuddalore/97/2022 dated 05.09.2022 on the file of the 3<sup>rd</sup> respondent and quash the same and consequently direct the 3<sup>rd</sup> respondent to accept the gift deed in respect of the property in S.No.61/2 at Chellancherry



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Village, Cuddalore Taluk to be presented by the petitioner in favour of the fourth respondent and register and release the same.

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For petitioner : Mr.J.Bharathiraja

For Respondents : Mr.E.Sundaram  
Government Advocate

### **ORDER**

The writ petition has been filed challenging the order in RFL/1 Joint – I, Sub-Registrar, Cuddalore/97/2022 dated 05.09.2022 on the file of the 3<sup>rd</sup> respondent, quash the same and consequently direct the 3<sup>rd</sup> respondent to accept the gift deed in respect of the property in S.No.61/2 at Chellancherry Village, Cuddalore Taluk to be presented by the petitioner in favour of the fourth respondent and register and release the same.

2. The learned counsel for the petitioner submitted that the petitioner purchased a land measuring to an extent of 2.15 acres of land comprised in S.No.61/2 at Chellancherry Village, Cuddalore Taluk vide registered Sale Deed in Doc.No.3383 of 2011 and the petitioner put up layout and sold most of the plots in the subject land. In the meantime, the fifth respondent filed O.S.No.94 of 2012 before the Wakf Tribunal (Principal Sub-Court, Cuddalore) seeking for declaration of right over the subject land and the same was dismissed on 30.01.2018. In fact, the fifth respondent issued a letter to the third respondent



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stating that the subject property does not come under the purview of the Wakf Board. While so, when the petitioner presented a Gift Deed in favour of the fourth respondent before the third respondent and the third respondent refused to entertain stating that the subject property comes under Waqf Board and passed the impugned order.

3. 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 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.



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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 serving notice to the necessary parties.

6. In view of the above, this Court directs the third respondent to conduct enquiry and pass appropriate orders on merits in terms decision cited supra, after providing opportunity of personal hearing to the petitioner as well as the Wakf Board, within a period of twelve weeks from the date of receipt of a copy of this order. With the above direction, the writ petition is disposed of. There shall be no order as to costs.

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dhk

Index:Yes/No

**M.DHANDAPANI, J.**

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