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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.29145 of 2019

M.Syamala

Represented by her Power of Attorney Agents

1.C.Srinivasan

2.N.Ravichandran

... Petitioners

Vs

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

2. The Sub Registrar,
Office of the 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

Writ Petition is filed under Article 226 of the Constitution of India in the nature of Writ of Mandamus, praying to direct the 2nd respondent to register the Deed of Sale, Lease, Mortgage presented by the Power Agents of Writ Petitioner for alienating the property which is situated in S.No.76/5 at Rasathupuram Village, Wallajah Taluk, Vellore District.

For Petitioner : Mr.T.S.Baskaran

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

For R3 : Mr.Mohammed Fayaz Ali

ORDER

This writ petition is filed to issue a Writ of Mandamus, to direct the 2nd respondent to register the Deed of Sale, Lease, Mortgage presented by the Power Agents of the petitioner for



alienating the property situated in S.No.76/5 at Rasathupuram Village, Wallajah Taluk, Vellore District.

2. The case of the petitioner is that the petitioner owned a property comprised in S.No.76/5 of an extent of 0.30.24 ares, situated at Rasathupuram Village, Wallajah Taluk. It was originally owned by one Raji Maistry. The petitioner had purchased the said property, vide registered sale deed, dated 05.01.1987, in Document No.1170. Thereafter, the petitioner was also issued with Patta under Patta No.250. 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 house plots, the petitioner executed General Power of Attorney, dated 11.12.2008 registered, vide Doc.No.1552 of 2008. 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 plots, 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 plots comprised in S.No.76/5, it is learnt that the subject property cannot be dealt with due to the objections raised by the 3rd respondent.

3. On a perusal of the counter affidavit filed by the 3rd respondent, it 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 S.No.76/5. 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, the 2nd respondent issued notice dated 25.11.2019 for the enquiry to be conducted on 10.12.2019 in respect of the objections raised by the 3rd respondent and it is pending without passing any final orders.

4. Considering the above facts and circumstances, the 2nd respondent is directed to issue fresh notice to the petitioners 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.



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

Sd/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

smv

To

1. The District Registrar
Office of District Registrar,
Vellore.
2. The Sub Registrar,
Office of the Sub Registrar,
Registrar office in Arcot,
Vellore.
3. The Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
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+1cc to the Government Pleader, S.R.No.6456

W.P.No.29145 of 2019

MG (CO)
SU (22/02/2022)