



W.P(MD)No.12920 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12920 of 2022

Pon.Palmani

... Petitioner

Vs.

1.The Sub Registrar,
Sub Register Office,
Mathagupatti,
Sivagangai District.

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai-600001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the first respondent to register the subject property in S.No.166 extent of 10.72 hectare situated at Aralikottai Village, Singampunari Taluk, Sivagangai District and release the documents to the petitioner within the time stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For R1 : Mr.K.S.Selva Ganesan
Additional Government Pleader

For R2 : Mr.D.S.Haroon Rasheed



W.P(MD)No.12920 of 2022

WEB COPY

ORDER

Heard the learned counsel on either side.

2. The writ petitioner had purchased the petition mentioned property along with two others under a registered sale deed dated 10.02.2011. Now, the petitioner wants to sell the same. The petitioner apprehends that the first respondent may not accept the document and insist that No Objection Certificate must be obtained from the second respondent. That led to filing of this writ petition.

3. When the matter was taken up for hearing, the learned Standing Counsel appearing for the Board submitted that the property in question had already been endowed in favour of Ahamed Sahib Fakir Pallivasal, Aralikottai and that therefore, it is not open to deal with the same. The petitioner's counsel on the other hand draws my attention to O.S.No.331 of 2019 filed by the persons interested in the said Pallivasal seeking the relief of declaration and recovery of possession. The said suit was dismissed by the Wakf Tribunal on 30.03.2022.



W.P(MD)No.12920 of 2022

4. In cases involving land endowment in favour of the temples, the Hon'ble Division Bench in W.P.Nos.30589 of 2013, dated 05.04.2017, had issued the following directions:-

“(i) The registering authority before whom the document has been presented shall cause service of notice on the parties to the deeds and also to the objector /religious institution hold summary enquiry, hear the parties and then either register or refuse to register the document by passing an order having regard to the relevant facts as indicated above.

(ii) If the registering authority refuses to register any document by accepting the objections raised under Section 22-A of the Registration Act, the aggrieved may file a statutory appeal under the Act.

(iii) if the objections raised under Section 22-A of the Act by the religious institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a writ petition seeking cancellation of the registration or for any other relief or to approach the civil Court for declaration of the title and for other consequential reliefs.

(iv) if the registering authority refuses to register the document acting on the objections raised by a religious institution under Section 22-A of the Registration Act, the parties to the deed will be at liberty to straightaway approach the civil Court for declaration of title and other relief without availing the opportunity for filing a statutory appeal.

(v) we further direct that if the deed has already been registered without there being any objection by the religious institution under Section 22-A of the Act, the document shall be returned to the parties concerned leaving it open for the religious institution to approach either the High Court under Article 226 of



W.P(MD)No.12920 of 2022

the Constitution of India or the Civil Court for appropriate relief as indicated above. At any rate, the registering authority shall not withhold the deed which has already been registered.”

5. I am of the view that the very same approach can be adopted in the present case also. The petitioner is permitted to present the document in question for registration before the first respondent. The first respondent will issue notice to the writ petitioner as well as the second respondent and hold enquiry and further course of action shall be in line with the directions set out in the aforesaid decision.

6. The Writ Petition is disposed of accordingly. No costs.

27.07.2022

Index : Yes / No
Internet : Yes/ No
rmi



WEB COPY



W.P(MD)No.12920 of 2022

G.R.SWAMINATHAN, J.

rmi

W.P(MD)No.12920 of 2022

27.07.2022