



WEB COPY

WP No.35014 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-06-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.35014 of 2015

J.P.G. Nagar Residents Welfare Association,
Represented by its President,
S.Thirunavukarasu,
No.128/3, (South),
Muriandampalayam Village,
Sathi Main Road,
Sevoor,
Tiruppur District.

... Petitioner

Vs.

1.The District Registrar,
Registration Department,
Coimbatore.

2.The District Registrar,
Registration Department,
Tiruppur.

3.The Sub Registrar,
Registration Department,
Avinashi,
Tiruppur District.



4. The Superintendent of Wakfs,
Coimbatore-Nilgiris-Tiruppur,
14-15, Mosque Buildings,
Coimbatore,
Pin Code – 641 018.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned communication of the first respondent dated 22.01.2008 passed in No.18042/B1/2007-2 enclosing the extract dated December 2007 issued by the fourth respondent herein, quash the same and consequently direct the respondents 2 and 3 herein to register the documents pertaining to S.F.No.128/3, Muriyandampalayam Village, Avanashi Taluk, Tiruppur District (J.P.G.Nagar) as and when presented for Registration by the members of the petitioner's Association whose names are enclosed in the typed set of papers.

For Petitioner : Mr.K.Govi Ganesan

For Respondents-1 to 3 : Mr.T.Arunkumar,
Additional Government Pleader.

For Respondent-4 : Mr.Mohammed Fayaz Ali

ORDER

The order of rejection passed by the first respondent in proceedings dated 22.01.2008 rejecting the claim of the writ petitioner to



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register a document, which is under challenge in the present writ petition.

2. The petitioner is J.P.G.Nagar Residents Welfare Association.

3. The Registering Authority. based on the objections raised by the Wakf Board, declined to register the document presented by the writ petitioner.

4. The Tamil Nadu Wakf Board Register reveals that the subject property is the Hereditary under Wakf Deed.

5. When there is an objection from the Wakf Board for registering the document, then the Registering Authority has no authority to register the same in view of Section 22-A of the Registration Act, which reads as under:-

“22-A. Refusal to register certain documents.--Notwithstanding anything contained in this Act, the Registering Officer shall refuse to register any of the following documents, namely :-



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(1) Instrument relating to the transfer of immovable properties by way of sale, gift, mortgage, exchange or lease,--

(i) belonging to the State Government , or the Local Authority or Chennai Metropolitan Development Authority established under Section 9-A of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972);

(ii) belonging to, or given or endowed for the purpose of, any Religious Institution to which the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959 (Tamil Nadu Act 22 of 1959) is applicable;

(iii) donated for Bhoodan Yagna and vested in the Tamil Nadu State Bhoodan Yagna Board established under Section 3 of the Tamil Nadu State Bhoodan Yagna Act, 1958 (Tamil Nadu Act XV of 1958); or



(iv) of Wakfs which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995 (Central Act 43 of 1995),

Unless a sanction in this regard issued by the Competent Authority as provided under the relevant Act or in the absence of any such authority, an authority so authorised by the State Government for this purpose, is produced before the Registering Officer.”

6. More specifically, Section 22-A(iv) of the Act, states that the Registrar can refuse to register the Wakf properties if there is an objection.

7. In the present case, the order impugned itself reveals that the subject property is the Hereditary Wakf Deed. Therefore, the petitioner-Association has to approach the Competent Civil Court of Law for the purpose of establishing their title or ownership.

8. The Registrars are incompetent to decide the title and they



have proceeded in accordance with the provisions of the Registration Act and refused to register the documents.

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9. That being the factum, the issues raised by the petitioner require an adjudication. More specifically, about the title.

10. Thus the petitioner-Association is at liberty to approach the Competent Civil Court of Law for redressal of their grievances.

11. With the above liberty, the writ petition stands dismissed. However, there shall be no order as to costs.

07-06-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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