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W.P.No.9196 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.9196 of 2023

Mr.M.Shanmugam

... Petitioner

-Vs-

1.The Chief Executive officer
Tamil Nadu Waqf Board
No.1, Jaffar Syrang Street
Vallal Seethakathi Nagar
Chennai - 600 001.

2.The Waqf Superintendent
O/o. Waqf Superintendent
Periya Pallivasal Complex
Poonamallee, Chennai-600 056.

.. Respondents

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the 1st Respondent to give No Objection Certificate to make further Registrations in respect of the Petitioner's Patta Land bearing Survey No.14/1, as per Patta No.635, new Sub-division survey No.14/10 based on my representation dated 24.11.2022.



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For Petitioner Mrs.B.Sharmila

For Respondents Mr.Haja Mohideen Gisthi
Standing Counsel

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the first respondent to give a no objection certificate in order to enable the petitioner to deal with the subject property bearing Survey No.14/1, as per Patta No.635, new Sub-division Survey No.14/10 based on the representation made by the petitioner on 24.11.2022.

2.The case of the petitioner is that he is the owner of the subject property by virtue of a registered sale deed dated 19.04.1996. The further case of the petitioner is that the revenue records also stands in his name. The petitioner wanted to deal with the property and it was informed that the petitioner must get a no objection certificate from the first respondent. The petitioner therefore made a representation in this regard on 24.11.2022. Since the same was not considered, the present writ petition has been filed before this Court.



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3. Heard Mrs.B.Sharmila, learned counsel for the petitioner and Mr.Haja Mohideen Gisthi, learned Standing Counsel for the respondents.

4.Mr.Haja Mohideen Gisthi, learned Standing Counsel appearing on behalf of the respondents submitted that the property in Survey No.14 at Chinapanicheri Village, Kundrathur Panchayat Union, Kancheepuram District, measuring an extent of 1.31 acres belongs to the Wakf. The relevant proforma report along with the details was also submitted before this Court. The learned Standing Counsel further submitted that the Tahsildar, Kundrathur has already been approached and the Board has requested the Tahsildar to conduct a survey and measure the property at Survey No.14 and to demarcate 1.31 acres of property which belongs to the Wakf. The learned Standing Counsel submitted that the inspection is slated to be held next week.

5.In the considered view of this Court, Survey No.14, is a larger extent of property and this survey number has already been subdivided and the petitioner is claiming to be owner of the property in Survey No.14/10 measuring an extent of 9600 sq.ft. Only if a survey is conducted, it will be known as to whether the property belonging to the petitioner falls within the property belonging to the Wakf measuring



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an extent of 1.31 acres. If the property belonging to the petitioner does not fall within the property that belongs to the Wakf, the petitioner will not have any problem in dealing with the property. This can be ascertained only if a proper survey is conducted and it is measured and the property of the petitioner is identified. In view of the same, the steps already taken by the Board must reach its logical end.

6. In view of the above, there shall be a direction to the Tahsildar, Kundrathur Division, Thiruvallur District, to conduct the survey on **03.05.2023, from 10.30 am**, onwards. At the time of the survey, it is left open to the petitioner to submit his title document and the Board shall also submit the relevant document to substantiate their right over the Wakf property. The Tahsildar shall identify the property and shall submit a report to the Tamil Nadu Wakf Board. This process shall be completed by the Tahsildar, Thiruvallur, within a period of **two weeks** from the date of conducting the survey. If the property belonging to the petitioner does not fall within the property belonging to the Wakf, there is no need for the petitioner to get any no objection certificate and the petitioner can go ahead and deal with the property. If in case, the property of the petitioner falls within the property belonging to the Wakf, the petitioner has to necessarily workout his remedy in the manner known to law.



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7. In the result, this writ petition is disposed of with the above directions. No

costs.

19.04.2023

KP

Internet : Yes/No
Index : Yes/No
Speaking Order: Yes/No
Neutral Citation : Yes/No

To

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No.1, Jaffar Syrang Street
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N.ANAND VENKATESH, J.

KP

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