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W.P.Nos.9759 and etc. of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2023

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.9759, 9761, 9762, 9764,
9769, 9770, 9772 & 15399 of 2021
and W.M.P.No.16285 of 2021

W.P.No.9759 of 2021:

P.Gopinath

.. Petitioner

vs

1. Inspector General of Registration
Santhome High Road
Chennai – 600 028.

2. The Sub Registrar
Office of the Sub Registrar
Gingee – 604 202.

3. The Secretary
Tamil Nadu Wakf Board
No.1, Jaffer Syrang Street
Vallal Seethakathi Nagar
Chennai 600 001.

4. The Superintendent of Wakfs
Tamil Nadu Wakf Board, Cuddalore Division
No.512, Gandhi Road
Panruti 607 106.

[R3 & 4 impleaded vide order dated
17.06.2021 in W.M.P.No.11523 of 2021
in W.P.No.9759 of 2021]

.. Respondents



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Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, to direct the second respondent to register any document presented by the petitioner, with regard to his property in S.No.40/9C in Sakkarapuram Village, Gingee Taluk without insisting on obtaining a No Objection Certificate (NOC) from the Tamil Nadu Wakf Board.

For Petitioner : Mr.T.Karunakaran

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader
for respondents 1 & 2

Mr.S.Haja Mohideen Gisthi
Standing Counsel
for respondents 3 & 4

COMMON ORDER

Since the issue raised in these writ petitions are one and the same or common, with the consent of the learned counsel appearing for both sides, these writ petitions were heard together and are disposed of by this common order.

2. That in all these cases, uniformly, the case of the respective petitioners are that, they presented some documents for registration before the concerned Registering Authority, viz., the Sub-Registrar, Gingee. However, the Sub-Registrar, Gingee, having verified the documents presented for registration by



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the respective petitioners, have refused to accept the documents for registration by citing the reason that the Tamil Nadu Wakf Board ie., the third and fourth respondents, who have been subsequently impleaded, had given objection to the Registering Authority not to register any documents pertaining to Survey No.40 or any Sub-Division in Survey No.40 of Sakkarapuram Village, Gingee Taluk, Villupuram District and based on such objection, unless an NOC, i.e, No Objection Certificate is obtained and produced from the Tamil Nadu Wakf Board, the documents presented by the respective petitioners cannot be registered. This seems to be the stand of the Registering Authority, as against which these writ petitions were filed.

3. These writ petitions have been pending from 2021 and several times, these cases had come before my predecessors and before me also three times these writ petitions have come up and after giving directions to the Tamil Nadu Wakf Board to put forth their case, today, when these cases are taken up for final hearing, Mr.S.Haja Mohideen Gisthi, learned Standing Counsel appearing for the Tamil Nadu Wakf Board, on instructions, would submit that, insofar as these eight cases are concerned, the respective documents were presented for the property corresponding to the Survey No.40, i.e., so many sub-divided properties under



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Survey No.40 like 49C, 49A, 49H etc.

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4. In respect of these properties, the suit filed by the Tamil Nadu Wakf Board in O.S.No.295 of 1973 etc., before the District Munsif court, Tidivanam, were dismissed by judgment and decree dated 10.09.1975, under which, the prayer sought for by the Tamil Nadu Wakf Board, to declare that the suit property as Wakf property and for recovery of possession, was declined and the suit was dismissed.

5. The learned Standing Counsel appearing for the Tamil Nadu Wakf Board would submit further that, as against which, even though appeal was filed in Appeal Suit No.479 of 1973 etc, these appeal suits were also dismissed by the I Appellate Court by judgment and decree dated 18.02.1977, where, the Trial Court decree has been confirmed by the I Appellate Court.

6. In fact, the judgment and decree of the Trial Court as well as the I Appellate Court have been filed by the petitioner in the typed-set of documents, relying upon the same, the learned Standing Counsel would submit that, since the Survey No.40 of Sakkarapuram is covered by the said order of the Civil Court and



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that Survey No.40 has been sub-divided as various sub-divisions like 49C, 49A etc., and in these eight writ petitions, the respective petitioners have filed documents for registration only pertaining to the property of any sub-division covering under the Survey No.40, the Tamil Nadu Wakf Board is ready and willing to consider the plea raised in this regard by the respective petitioners before the Board, where, after verifying the genuinity of the claim made by the petitioners, the Tamil Nadu Wakf Board may give NOC, based on which, they can proceed further, the learned Standing Counsel contended.

7. I have considered the said submissions made by learned counsel appearing for the parties, especially the stand taken by the learned Standing Counsel appearing for the Tamil Nadu Wakf Board.

8. It is in black and white that the Civil Court has dismissed several suits, as referred to above, filed by the Tamil Nadu Wakf Board, which pertains to the property at Survey No.40 at Sakkarapuram Village, Gingee Taluk, Villupuram District. These properties were subsequently sub-divided into various sub-divisions like 49C, 49A etc., as stated *supra* and in respect of these properties alone, now documents were presented by the respective petitioners before the



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Sub-Registrar Office for registration, which was refused.

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9. In respect of the Trial Court decree, which has been confirmed by the I Appellate Court, as stated *supra*, as against which no further appeal has been filed. As the Tamil Nadu Wakf Board, even till date, is not able to find any document or a piece of paper to establish that they have filed further appeal, it can safely be concluded that no further proceedings have been initiated by the Tamil Nadu Wakf Board. Therefore, the Trial Court decree, as confirmed by the I Appellate Court has become final.

10. When that being so, all the sub-divided properties covering under Survey No.40 of the Sakkarapuram Village, as referred to above, are free from incumbrance, especially from the point of view made by the Tamil Nadu Wakf Board. Therefore, on that pretext, the Registering Authority ie., the second respondent cannot deny the documents presented by these petitioners for registration. More so, since the Tamil Nadu Wakf Board lost their civil cases filed by them, as stated *supra*, they cannot have any right over the property in respect of the Survey No.40 and therefore, the question of getting NOC from Tamil Nadu Wakf Board by these petitioners, whose documents are pertaining to the property



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at Survey No.40 or its sub-divisions does not arise. Hence, such a move by the Tamil Nadu Wakf Board or such a move, under which, the parties are relegated to go before the Tamil Nadu Wakf Board to get NOC, in the considered opinion of this Court is not only unwarranted but without any legal backing. Therefore, in respect of these eight writ petitions, this Court has no hesitation to hold that the prayer sought for by the respective petitioners can be granted. Accordingly, the following orders are passed in these writ petitions:

That the second respondent / Sub-Registrar Office, Gingee is hereby directed to entertain the respective documents presented by the respective petitioners for registration and proceed with the registration if the respective documents are otherwise in order without insisting upon the respective petitioners to get NOC from the Tamil Nadu Wakf Board and the needful as indicated above shall be undertaken by the Sub-Registrar concerned within a period of eight weeks from the date of receipt of a copy of this order.



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WEB COPY 11. With these directions, these eight writ petitions are ordered.

Consequently, the connected miscellaneous petition is closed. There will be no order as to costs.

Index: Yes/No

14.02.2023

Neutral Citation :Yes/No
drm

To

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R. SURESH KUMAR, J.

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