



WEB COPY

WP No.13718 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-06-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.13718 of 2023

And

WMP No.13395 of 2023

- 1.V.Govindharaji
- 2.N.Padmavathi
- 3.N.Murugan
- 4.S.Sekar
- 5.Devakanni Munusamy
- 6.S.Duraimurugan
- 7.N.Sekar
- 8.S.Natarajan
- 9.S.Jayabalan

... Petitioners

Vs.

- 1.The District Collector,
District Collector Office,
Villupuram.
- 2.The Inspector General of Registration,
Santhome High Road,
Chennai-600 028.
- 3.The District Registrar,
District Registrar Office,



Tindivanam-604 001.

4.The Sub Registrar,
Office of the Sub Registrar,
Gingee-604 202.

5.The Secretary,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai-600 001.

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

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Writ of Mandamus, to direct the fourth respondent to register any document presented by the petitioners, with regard to the petitioners' property in Krishnapuram Village, Sakkarapuram Village and Gingee Village of Gingee Taluk, Villupuram District without insisting to obtain a No Objection Certificate (NOC) from the fifth and sixth respondents (i.e.,) Tamil Nadu Wakf Board.

For Petitioners : Mr.T.Karunakaran

For Respondents-1 to 4 : Mr.D.Ravichander,
Special Government Pleader.



WEB COPY

WP No.13718 of 2



For Respondents-5 and 6: Mr.S.Haja Mohideen Gisthi

ORDER

The present writ petition has been instituted to direct the fourth respondent to register any document presented by the petitioners with regard to the petitioners' property Krishnapuram Village, Sakkarapuram Village and Gingee Village of Gingee Taluk, Villupuram District without insisting to obtain a No Objection Certificate (NOC) from the fifth and sixth respondents (i.e.,) Tamil Nadu Wakf Board.

2. The petitioners state that they are the owners of the property situated in Krishnapuram Village, Sakkarapuram Village, Gingee Village under Gingee Taluk, Villupuram District. The particulars of petitioners' Title Deeds details are as under:-

S.No.	Date	Details of Document	Village and Survey No. (As per Doc.)	Extent (As per Doc.)
1.	17.11.2004	First petitioner purchased the property from Ramasamy and others by way of Sale Deed Document No.2022 of 2004	Krishnapuram 26/21	1518 sq. ft.
2.	23.01.1981	Fifth petitioner purchased the property from	Sakkarapuram	4 cent



WEB COPY

WP No.13718 of 2



S.No.	Date	Details of Document	Village and Survey No. (As per Doc.)	Extent (As per Doc.)
		B.Mohammed Yousuf Sayubu by way of Sale Deed Document No.164 of 1981	26/6	
3.	29.03.2006	Third petitioner became the owner of the property by way of Settlement Deed Document No.491 of 2006 from second petitioner.	Sakkarapuram 33/41 (Old) 33/41B (New)	881.25 sq. ft.
4.	22.10.2007	Sixth petitioner purchased the property from Durvesh Moidheen and others by way of Sale Deed Document No.2598 of 2007	Gingee 37/2 (Old) 37/2A1 (New)	1320 sq. ft.
5.	16.10.2007	Eighth petitioner purchased the property from Durvesh Moidheen and others by way of Sale Deed Document No.2541 of 2007	Gingee 37/2 (Old) 37/2A1 (New)	2160 sq. ft.
6.	17.10.2007	Ninth petitioner purchased the property from Durvesh Moidheen and others by way of Sale Deed Document No.2540 of 2007	Gingee 37/2 (Old) 37/2A1 (New)	2100 sq. ft.
7.	01.09.2014	Seventh petitioner purchased the property from M.Maithili Ammal by way of Sale Deed Document No.2273 of 2014.	Krishnapuram 25/2	1971 sq. ft.
8.	05.07.2017	Fourth petitioner purchased the property from S.Akila by way of Sale Deed Document No.1323 of 2017.	Krishnapuram 8/1 (Old) 218/6 (New)	2640 sq. ft.
9.	09.09.2022	Second petitioner became the owner of the property by way of Release Deed	Sakkarapuram 33/41 (Old)	440-3/4 sq. ft.



WEB COPY



S.No.	Date	Details of Document	Village and Survey No. (As per Doc.)	Extent (As per Doc.)
		Document No.2876 of 2022 from her daughter in law Dharani.	33/41B (New)	

3. The petitioners state that all of a sudden the Sub Registrar, Gingee-fourth respondent has notified that Survey Number mentioned in the Wakf Board regarding the Gingee Village, Jayankondan Village, Sakkarapuram Village, Krishnapuram Vilage, Meenambur Village and Sirukadambur Village cannot be registered without obtaining the No Objection Certificate (NOC) from the Wakf Board-sixth respondent herein.

4. The petitioners approached the Sub Registrar for further clarification. However, the Sub Registrar has not given any reason for the purpose of the Notification issued and the petitioners have contended that they are the absolute owners of the properties as stated above and therefore, they cannot be prevented from registering the documents under the provisions of the Registration Act.



WEB COPY

5. The learned counsel for the petitioners mainly contended that the original suit instituted by the Tamil Nadu State Wakf Board in the year 1973 was dismissed by the Civil Court of Law. The Wakf Board lost its case and now after a lapse of several years, the objection raised by the Wakf Board, cannot be taken into consideration for the purpose of denying the rights of the petitioners to register their documents. The learned counsel for the petitioners reiterated by stating that the Notification does not contain any particulars except the Survey Numbers.

6. The learned counsel for the petitioners further states that the petitioners are in possession of their title documents and are in possession of their respective portion of the properties. While-so, mere objection by the Tamil Nadu Wakf Board is causing infringement of their right to register their documents in accordance with the provisions of the Registration Act.

7. The learned counsel appearing on behalf of the Wakf Board produced the original documents that is particulars of Wakf Board and raised an objection by stating that the Survey Numbers are clearly



mentioned in the petitions submitted by the Wakf Board to the Sub Registrar. Their objection is not entertained in registration of any documents pertaining to Survey Numbers mentioned in their objection letter, which was notified by the Sub Registrar under Section 22-A of the Registration Act.

8. Substantiating the claim of the Wakf Board, the learned counsel for the Wakf Board presented the documents before this Court to establish that all such Survey Numbers are falling under the 'Wakf' and the Wakf Board is in possession of the relevant documents. Therefore, the petitioners cannot present any documents and register the same with reverence to the Survey Numbers mentioned in their objections, which all are notified by the Sub Registrar. The Proforma Report submitted before this Court are made in accordance with the provisions of Sections 4, 5 and 6 of the Wakf Act, 1995. Therefore, the present writ petition is to be rejected.

9. This Court cannot adjudicate the disputed facts between the parties whether the petitioners are the holders of valid title or not, cannot be decided in the present writ petition.



10. The only questions, which are to be considered is whether the objections raised by the Tamil Nadu Wakf Board is in consonance with the provisions of the Registration Act or not?. Whether the Registering the Authority has notified the submissions under Section 22-A of the Registration Act, in a proper manner or not?

11. Section 22-A of the Registration Act, enumerates 'Refusal to register certain documents' and Sub Clause (iv) of Sub Section (1) to Section 22-A of the Registration Act, stipulates that “of Wakf which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995 (Central Act 43 of 1995). Further Section 22-A denotes that “Notwithstanding anything contained in this Act, the Registering Authority shall refuse to register any of the documents stipulated in Sub Section (1). Therefore, the Registering Authority has no option but to refuse to register the documents, if those documents are falling under anyone of the clauses stipulated in Sub Section (1) to Section 22-A of the Registration Act.



WEB COPY

WP No.13718 of 2



12. When the Wakf Board now presented the original documents before this Court i.e., Proforma Report, which all are being maintained under Sections 4, 5 and 6 of the Wakf Act, 1995. It is for the petitioners to establish their title or ownership in the manner known to law.

13. The Power of Judicial Review of the High Court under Article 226 of the Constitution cannot be expanded for the purpose of adjudication of the disputes of civil nature. All such disputes are to be resolved based on the documents and evidences available on record and before the Competent Forum. Merely drawing an inference based on the revenue documents, title cannot be settled and in the event of passing any such order, it would cause prejudice on either of the parties.

14. In the present case, the Wakf Board presented the original documents to establish that the subject properties wherein they have raised an objection belonged to the Wakf Board. The petitioners also claim title over the property. The petitioners rely on the decree passed in the year



1973. However, the petitioners were not parties.

WEB COPY

15. The learned counsel for the petitioners state that their ancestors were parties, but the Survey Numbers are not tally. There are many discrepancies with reference to the Survey Numbers now stated in the affidavit and the schedule mentioned in the decree relied on by the petitioners.

16. This Court cannot conduct a roving enquiry in respect of such controversies or discrepancies in the matter of property disputes. Therefore, the petitioners, if at all aggrieved, have to approach the Competent Forum.

17. As far as the powers of the Registering Authority under Section 22-A is concerned, the Registering Authority has acted in consonance with the provisions of the Act and based on the objections raised by the Wakf Board. Once the objections are filed by the Religious Institutions and/or by the Tamil Nadu Wakf Board, the Registering Authority has no objection. Since the language of the word used in the



Section 22-A is 'shall', the Registering Authority has no power of adjudication on these disputed issues of civil nature. Therefore, they acted in accordance with Section 22-A of the Act and if the parties are claiming any right, they have to establish their case before the Competent Forum. Thus this Court do not find any infirmity in respect of the stand taken by the Registering Authority based on the objection submitted by the Tamil Nadu Wakf Board. The petitioners are at liberty to approach the appropriate Forum.

18. It is brought to the notice of this Court that under Section 83 (1) of the Wakf Act, 1995, the Tribunal has already been constituted and enumerates that “The State Government shall, by Notification in the Official Gazette, constitute as many Tribunals as it may think fit, for the determination of any dispute, question or other matter relating to a Wakf or Wakf property under this Act and define the local limits and jurisdiction of such Tribunals”.

19. The scope of Section 83 (1) has been elaborately discussed



by the Apex Court in the case of **Rashid Wali Beg vs. Farid Pindari** [(2022) 4 SCC 414]. Section 83 (7) in unambiguous terms stipulates that

“the decision of the Tribunal shall be final and binding upon the parties to the application and it shall have the force of a decree made by the Civil Court”.

20. Therefore, the petitioners are at liberty to redress their grievances in the manner contemplated under the provisions of the Registration Act.

21. With the above liberty, the present writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

20-06-2023

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



1. The District Collector,
District Collector Office,
Villupuram.
2. The Inspector General of Registration,
Santhome High Road,
Chennai-600 028.
3. The District Registrar,
District Registrar Office,
Tindivanam-604 001.
4. The Sub Registrar,
Office of the Sub Registrar,
Gingee-604 202.
5. The Secretary,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai-600 001.
6. The Superintendent of Wakfs,
Tamil Nadu Wakf Board,
Cuddalore Division,
No.512, Gandhi Road,
Panruti-607 106.



WEB COPY

WP No.13718 of 2



S.M.SUBRAMANIAM, J.

Svn

WP 13718 of 2023

20-06-2023