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W.P.(MD) No.24156 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :15.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD) No.24156 of 2022

and

W.M.P.(MD) No.18263 of 2022

T.Rajkumar

... Petitioner

Vs.

1.The Sub Registrar,
Manachanallur Sub Registration Department,
Office of the Sub Registrar,
Mannachanallur,
Tiruchirapalli District - 621 005.

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
***(R.2 name has been deleted vide order
of this Court dated 31.03.2022)***

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorarified Mandamus, calling for the

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records relating to the check slip dated 12.09.2022 in Refusal Number / Mannachanallur / 281/ 2022 issued by the first respondent to the petitioner quashing the same and consequently directing the first respondent to register the Sale Deed or Deeds that would be presented by the Power of Attorney Agent of the petitioner Venkatesh, son of Nagarajan for the land in Survey No.139/2 measuring Acre 23.70 cents in Vengangudi Village, Mannachanallur Taluk, Tiruchirapalli District.

For Petitioner : Mr.S.K.Mani

For Respondents : Mr.M.Prakash
Additional Government Pleader
for R.1

Mr.N.Mohideen Basha
Standing Counsel for R.2

ORDER

Heard both sides.

2.The petitioner wanted to deal with the petition mentioned property. When the document was presented for registration, the first respondent refused registration by citing the objection received from the second respondent. Challenging the same, this writ petition came to be filed.



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3. Section 22A of the Registration Act, 1908 mandates that the registering authority shall refuse to register a document if it relates to transfer of Wakf property.

4. The question that calls for consideration is whether the petition mentioned property is a Wakf property. I called upon the learned Standing Counsel appearing for the Tamil Nadu Wakf Board to produce some *prima facie* material to show that the petition mentioned property has been endowed for Wakf. Even if some material has been produced, I would have relegated the parties to go before the District Registrar to face the enquiry in terms of Sudha Ravi Kumar's case.

5. A property can be classified as Wakf property only in terms of Wakf Act. The Wakf Act prescribes certain procedures such as conducting preliminary survey and publishing the same in the official gazette. I called upon the learned Standing Counsel to produce a copy of the Gazette including the petition mentioned property as a Wakf property. No such material is forthcoming. The only material that has been placed before me is an extract from a bound register maintained by the second respondent.



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On this ground, the hands of the registering authority cannot be tied. I therefore set aside the impugned refusal check slip. The petitioner is permitted to re-present the document. The same will be registered and released subject to the fulfilment of the usual formalities. But then I have to necessarily grant liberty to the second respondent to proceed against the property if materials reveal that it is a Wakf property. The second respondent can file a suit before the Wakf Tribunal in this regard. The said suit will of course be decided in accordance with law. I am not foreclosing the defences of the petitioner. All the contentions of the petitioner are left open.

6.This writ petition is allowed with the aforesaid liberty to the second respondent. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

15.12.2023

NCC :Yes / No
Internet :Yes / No
Index :Yes / No
MGA



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G.R.SWAMINATHAN, J.

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