



W.P(MD)No.29221 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.01.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.29221 of 2022

- 1.A.Ramasamy
- 2.P.Swaminathan
- 3.B.Sathyamoorthy
- 4.M.Kumaravel
- 5.S.Selvarajan

... Petitioners

Vs

- 1.The District Registrar,
Tamil Nadu Registration Department,
Trichy District.
- 2.The Sub-Registrar,
Manachenallur,
Trichy District.
- 3.The Chief Executive Officer,
Tamil Nadu WAKF Board,
No.1 Jaffar Syrang Street,
Vallal seethakathi Nagar,
Chennai - 600 001.
- 4.The WAKF Superintendent,
Tamil Nadu WAKF Board,
Trichy Zone,
No.8/124, 2nd Floor,
Qaide Millath Road,
Palakarai, Trichy.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the refusal check slip dated 15.09.2022 issued by the second respondent vide refusal number RFL/Mannachanallur/284/2022 pertaining to the land comprised in S.Nos.79/2 and 79/1 situate in Samayapuram Village, Manachanallur Taluk, Trichy District and Quash the same with consequential direction directing the second respondent to register the Cancellation of Lease Deed dated 15.09.2022 for registration in TP/132725771/2022 within the time frame as may be fixed by this Court.

For Petitioners : Mr.S.Parthasarathy
for V.Malaiyendran

For Respondents : Mr.N.Satheesh Kumar
Additional Government Pleader
for R.1 and R.2

Mr.S.A.Ajmal Khan
Standing Counsel for R.3 and R.4

ORDER

Heard the learned counsel appearing for the writ petitioners, the learned Additional Government Pleader appearing for the Registration Department and the learned Standing Counsel appearing for the Wakf Board.

2.The documents in question were presented for registration. The registering authority citing the communication of the Tamil Nadu Wakf Board



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declined to register the document and issued the impugned refusal check slip.

Challenging the same, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioners reiterated all the contentions set out in the affidavit filed in support of the writ petition and relied on the decision reported in **2017 (3) CTC 135 (Sudha Ravi Kumar & Others Vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department and Others)**. He contended that the impugned orders will have to be set aside and the matter remitted to the file of the second respondent.

4.The learned Standing Counsel appearing for the Wakf Board also argued on the same lines. He relied on the decision reported in **2020 (2) CWC 286 (T.A.Hassain Basha vs. Tamil Nadu Wakf Board and Others)**. He pointed out that the judgment of the Hon'ble Division Bench as well as the order of the learned Single Judge were followed by me vide order dated 30.09.2020 in W.P(MD)No.10998 of 2020 (Rajah Company Vs. The Inspector General of Registration & Others).

5.I carefully considered the rival contentions and went through the materials on record as well as the aforesaid decisions. There is consensus on either side that the matter has to be remitted to the file of the registering



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authority for fresh consideration. The only question that arises for consideration is the scope of enquiry before the registering authority.

6.As rightly pointed out by the learned counsel appearing for the writ petitioners, in Paragraph Nos.23 and 24 of the Hon'ble Division Bench reported in **2017 (3) CTC 135** few other pertinent observations were made. They read as follows:

“23. This contention is seriously objected to by the learned counsel for the petitioners. First of all we should state that we are not going into this issue because the constitutionality of Section 22-A of the Registration Act is not under challenge. Secondly, whether the property which is covered in the deed presented for registration is a religious endowment or not in terms of the TN HR & CE Act also cannot be gone into by us as the said dispute could be resolved only by a Civil Court on evidence. Even the registering authority is not competent to go into the said disputed question as he is not exercising any judicial or quasi judicial function. Similarly, simply because the some lands were shown as the properties belonging to the religious institution in the register maintained by the temple, it cannot be construed that the said land belongs to the said religious institution. It needs to be noted that the register of properties under Section 29 was prepared not after notice to the interested persons. It was done unilaterally by the religious institution. Similarly, the maintenance of the register by



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updating the same is also not done after notice to the parties who are interested in the property which is included in the register after the preparation of the original register. Thus, the preparation as well as the maintenance of the register is by the unilateral act of the religious institution and therefore likelihood of the private lands belonging to any individual being included in the register by error cannot be ruled out. All these issues are to be resolved by the Civil Court. Therefore, in our considered view, once patta has been issued under either the Tamil Nadu Estates (Abolition and Conversion into Ryotwari) Act, 1948, Tamil Nadu Inam Estates (Abolition and Conversion into Ryotwari) Act, 1963 and the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 it is for the temple to establish its title before the Civil Court. The registrar is bound to act on the basis of the ryotwari patta issued by the authority concerned and he shall not refuse to register the said deeds. As we have already pointed out the remedy for the religious institution is to approach the civil court for appropriate remedy.

24. But this observation of ours shall not be construed that it is our conclusion that ryotwari patta issued to the ryot concerned is the final adjudication relating to the title for the property. We wish to clarify that the final adjudication regarding the title to the property can be had only before a Civil Court. We only say that at the time of registration of the deed, if any objection is made by the religious institution under Section 22-A of the Act, the registering authority shall



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issue notice afford opportunity to the parties, apply his mind and only from the materials available before him, if he is satisfied that the land belongs to the religious institution or given or endowed to the religious institution, then, he shall refuse to register such deed.”

The Hon’ble Division Bench was concerned with the register maintained by the religious institution under Section 29 of the The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959. In the case on hand, the Wakf Board relies on the proforma report. The proforma report is a document prepared only by the Wakf Board after a summary enquiry. It is not the case of the Wakf Board that while preparing the proforma report, notice was issued to the persons whose names then appeared in the revenue record. Therefore, the proforma report relied on the instant case will have to be given the same status as the register under Section 29 of the The Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

7.In this view of the matter, the refusal check slip impugned in the writ petition is quashed. The matter is remitted to file of the second respondent. The second respondent will adhere to the direction issued by the Hon’ble Division Bench in the decision reported in **2017 (3) CTC 135 (Sudha Ravi Kumar & Others Vs. The Special Commissioner and Commissioner, Hindu**



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Religious and Charitable Endowments Department and Others). The

principle of law enunciated in Paragraph No.23 will be borne in mind by the registering authority. The registering authority shall pass fresh order on merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order.

8.This writ petition is allowed accordingly. There shall be no order as to costs.

27.01.2023

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

To

1.The District Registrar,
Tamil Nadu Registration Department,
Trichy District.

2.The Sub-Registrar,
Manachenallur,
Trichy District.



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G.R.SWAMINATHAN, J.

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