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W.P.No.3197 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27..06..2024

Coram

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Writ Petition No.3197 of 2024

Neeraj Bose

..... Petitioner

-Versus-

- 1.The Inspector General of Registration,
Santhome High Road,
Chennai 600 004.
- 2.The Deputy Inspector General of Registration,
No.6/1. GRD Road, Opp. Air Force Admin College,
Redfields, Coimbatore 641 018.
- 3.The District Registrar,
District Collector Compound,
State Bank Road,
Coimbatore 641 018.
- 4.The Sub Registrar,
Periyanaickenpalayam,
Coimbatore 641 020.
- 5.Tamil Nadu Wakf Board,
Rep. by its Chief Executive Officer,
No.1, Jaffer Sirang Street,
Vallal Seethakathi Nagar,
Chennai 600 001.

..... Respondents

Petition filed under Article 226 of the Constitution of India, praying to



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issue a writ of mandamus directing the 4th respondent to release the petitioner's gift deed dated 26.06.2023 which is kept pending as Pending Document NO.P/Periyanaickenpalayam/166/2023 on the file of the 4th respondent herein without insisting NOC from the 5th respondent Tamil Nadu Waqf Board on the basis of the order passed in Na.Ka.NO.428 of 209 dated 27.11.2020 by the then Sub Registrar, Periyanaickenpalayam which is valid and enforceable in law, in respect of the petitioner's property bearing Plot NO.31, comprised in Survey Nos.290/2A, 291/1, 307/1A, 307/1B, 307/Part, 308/2 and 309/1 bearing Patta NO.4881 admeasuring 3795.5 square feet, situated at Thudiyalur Village, Coimbatore North Taluk, Coimbatore District.

For Petitioner : Mr.S.L.Sudarsanam

*For Respondent (s) : Mr.U.Baranidharan,
AGP for RR1 to 4*

*Mr.M.Mohammed Fayaz Ali for
R5*

ORDER

This writ petition has been filed seeking a writ in the nature of mandamus directing the 4th respondent to release the petitioner's gift deed dated 26.06.2023 which is kept pending as Pending Document No.P/Periyanaickenpalayam/166/2023 on the file of the 4th respondent herein without insisting NOC from the 5th respondent Tamil Nadu Waqf Board on the basis of the order passed in Na.Ka.No.428 of 209 dated 27.11.2020 by the then



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Sub Registrar, Periyanaickenpalayam.

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3. The 4th respondent registering authority filed counter affidavit opposing the writ petition and *inter alia* contending that the property which is subject matter in the settlement deed belonged to the Wakf Board and therefore as per the provision contained in Section 22-A(iv) of the Registration Act, registration was denied. If the petitioner produces NOC form the Waqf Boad,



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the settlement deed would be registered as per the law.

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4. Heard both sides.

5. The learned counsel for the petitioner brought to the notice of the court that in an identical situation when the refusal check slip issued by the 4th respondent herein was put to challenge, this court by order dated 28.06.2024 set aside the refusal check slip by allowing the writ petition in W.P.No.34738 of 2022 and directed the registering authority to register the document presented by the petitioner in respect of the property within a period of one week. The relevant portions of the order of this court are as follows:-

“8. It is relevant to note that those suits are filed after the advent of the Waqf Act, 1995, and constitution of the Waqf Tribunal. Only in view of the specific bar contained in the Waqf Act, 1995, the suit filed before the Civil Court were transferred to the Waqf Tribunal. Whereas, in the present case, the suit has been filed much before the constitution of the Waqf Tribunal under the Waqf Act, 1995. It is not the case that the Waqf Board was not a party to the proceeding. The Waqf board was a defendant in O.S. No. 1009 of 1960, wherein the Civil Court has declared that the property is not a Waqf property. No contra material has been placed before the Court and to show that judgment has not reached finality. Whereas, other suit in O.S. No.



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1346 of 1967 filed in respect of the same property, wherein findings are also recorded that the property is not a Waqf property and that suit has also reached finality upto the second appeal before this Court. Therefore, once the rights of the parties have been conclusively determined by the Civil Court and reached finality, this Court is of the view that mere citing of letter, the concluded matter cannot be reopened. If such things are allowed to continue, there will be no end for the conclusiveness reached among the parties. Before this Court also no material has been placed to establish that the property is Waqf property. Whereas, the Civil Court conclusively decided the rights in the year 1967, which is before the constitution of the Waqf Tribunal.

9. It is also relevant to note that before the constitution of the Waqf Tribunal, the disputes were decided before the Civil Court. Such was the scenario, the matter cannot be reopened by mere objection letter before the authorities, who are performing duties relate to registration of documents. It is also to be noted that in the enquiry report dated 27.11.2020 after perusing all the judgments of the Civil Court and documents produced by the parties, the Sub-Registrar has recorded the finding to the effect that the property in Survey Nos. 269/2, 270 and 271/1 is not Waqf property. Having found that fact on the basis of records, the rejection of



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registration merely citing the objection letter issued by the Waqf Board cannot be sustained in the eye of law. Accordingly, the impugned refusal slip stands quashed and the 3rd respondent is directed to register the document presented by the petitioner in respect of the property within a period of one week”

6. Thus, as rightly submitted by the learned counsel for the petitioner, the issue is squarely covered by the order of this court dated 18.06.2024 made in W.P.No.34738 of 2022. The writ petition succeeds accordingly.

In the result, the 4th respondent is directed to register the Gift Deed dated 26.06.2023 which is kept as pending document without insisting for No Objection Certificate from the 5th respondent within a period of one week from the date of receipt of a copy of this order and release the registered gift deed in favour of the petitioner or to the person authorized by the petitioner immediately thereafter. No costs.

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

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To

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N.SATHISH KUMAR.J.,
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