



W.P.No.23207 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.23207 of 2018

A.S.Velusamy

...Petitioner

-Vs-

1.The Sub-Registrar,
Office of the Sub-Registrar,
Periyanaickenpalayam,
SRKV Post,
Coimbatore District – 641 020.

2.The Tamil Nadu Waqf Board,
No.1, Jabber Sirang Street,
Vallalseethakkadhi Nagar,
Chennai – 600 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Mandamus, directing the first respondent to register the sale agreement dated 09.07.2015 without insisting on No Objection Certificate from the second respondent in respect of 1743 Sq.ft., in K.S.No.308/2B Patta No.899, Thudiyalur Village, Coimbatore Taluk, Coimbatore District and pass such further orders.

For Petitioner : Mr.R.Vivekanandan
for Mr.B.Ravi

For R1 : Mr.P.Anandakumar



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Government Advocate

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For R2

: Mr.T.Saikrishnan
Standing Counsel

ORDER

This writ petition is filed for issuance of a Writ of Mandamus, directing the first respondent to register the sale agreement dated 09.07.2015 without insisting on No Objection Certificate from the second respondent in respect of 1743 Sq.ft., in K.S.No.308/2B Patta No.899, Thudiyalur Village, Coimbatore Taluk, Coimbatore District.

2. Learned counsel for the petitioner submitted that the petitioner and others purchased an extent of 1.5 acre in S.No.308/2, Thudiyalur Village under a registered sale deed dated 12.4.1991. One Kovai Taluk, Ahale Sunnath PodhuNala Maaniya Committee, Coimbatore filed a suit in O.S. No. 1346 of 1967, DMC, Coimbatore for declaration that the suit properties are Mohammedan Waqf Properties. The defendants who are the vendors in the sale deed dated 12.4.1991, opposed the suit contending that it is hit by *res judicata* since the same issue had been decided in the earlier suit in O.S. No.1009 of 1960. The trial Court by judgment dated 27.11.1969 dismissed the suit holding that the suit properties are not Waqf properties. The same was confirmed by the Lower Appellate Court and also by this Court in



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judgement and decree dated 28/06/1976 in SA No.1410 of 1972.

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3. Learned counsel further submitted that the petitioner entered into an agreement of Sale Settlement Deed dated 07.09.2011, 3/4 th of the property conveyed under 12.4.1991 sale deed has been allotted to the petitioner. Thereafter, he entered into an agreement of sale with one Nirmala in respect of 1,743 sq. feet in S. No. 308/2B Thudiyalur Village, Coimbatore Taluk, on 09.07.2015. When the document was presented for Registration before the first respondent, it was returned with an inspection note that No Objection Certificate should be obtained from Tamil Nadu Waqf Board. The petitioner informed the first respondent that the property is not Waqf property as decided by the competent Civil Court and therefore there is no necessity to obtain NOC from the Waqf Board. The petitioner also submitted copies of decree and judgements of Trial Court and Appellate Courts. Since it did not evoke any response, a legal notice was issued to the first respondent on 24.5.2018 calling upon him to register the agreement and hand over the document. Even after receipt of the same, the first respondent has not registered the document. Therefore, the present writ petition is filed before this Court.



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4. Learned counsel for the petitioner drew the attention of this

Court to the order passed by this Court in ***W.P.No.34738 of 2022 dated 18.06.2024, D.Ramesh Vs. The Inspector General of Registration, 100, Santhome High Road, Raja Annamalaipuram, Chennai – 600 028***, which held 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. 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 reopened. If such things are allowed to continue, there will be no end for the



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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 dispute 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 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.”

J.SATHYA NARAYANA PRASAD, J.

5. Heard both sides and perused the materials placed on record.

6. Taking into above factual matrix of the case and the ratio

laid down by this Court in *W.P.No.34738 of 2022 dated 18.06.2024*, the



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first respondent is directed to register the sale agreement dated 09.07.2015, within a period of six weeks from the date of receipt of a copy of the order.

In the result, the writ petition stands disposed of with the above observation and direction. No costs.

28.06.2024

cda

Index : Yes/No

Speaking / Non-Speaking Order

To

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Coimbatore District – 641 020.

2.The Tamil Nadu Waqf Board,
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