



W.P.No.17962 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 29.08.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.17962 of 2024

1. Abdul Haadhi
2. H.Habibunnisa
3. A.Rahemunnisa
4. M.Kamarunnisa
5. M.Majitha Begam
P1 to P5, rep. by their
Power of Attorney, Mr.G.Srinivasan ... Petitioners

vs.

1. The District Registrar,
Chidambaram Registration District,
Chidambaram.

2. The Sub Registrar,
Puthuchatthiram Sub Registrar Office,
Puthuchatthiram,
Cuddalore District.

3. The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of



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the impugned order dated 27.03.2024 made in Refusal Check Slip RFL/Puthuchattiram/Chidambaram/14/2024 passed by the 2nd respondent and quash the same, consequentially direct the 2nd respondent to register the Sale Deed dated 22.03.2024 executed by the petitioners' principals.

For Petitioners : Mr.G.Venkatesh
For Respondents : Mr.T.Chezhiyan (for R1 and R2)
Additional Government Pleader
Mr.T.Sai Krishnan (for R3)

ORDER

Aggrieved by the Refusal Check Slip issued by the 2nd respondent, refusing to register the sale deed presented for registration on the ground that the subject matter of the sale deed was a Wakf property, the petitioners have come before this court.

2. The father of the petitioners viz., G.Mohamed Ghouse Malimar, purchased the subject property under registered sale deed dated 29.06.1944. Thereafter, there was a partition in the family on 10.11.1993. According to the petitioners, they executed a sale deed on 22.03.2024 in respect of the subject property in favour of one Sampath and Prasad and presented the same for registration before the 2nd respondent. The 2nd respondent refused registration on the ground that the 3rd respondent made a claim that the



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subject property was a Wakf property. Aggrieved by the same, the petitioners, are before this Court.

3. The learned counsel appearing for the petitioners submitted that the 3rd respondent has not produced any legally acceptable document to show that the subject property belongs to the Wakf Board and the impugned order passed by the 2nd respondent refusing registration is unsustainable in law. The learned counsel also submitted that as per the direction issued by the Division Bench of this Court in ***Sudha Ravi Kumar and another v. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department, Chennai and others*** reported in **(2017) 3 CTC 135**, before taking a decision on the objection raised by the religious institutions or Wakf, the registering authority shall conduct a summary enquiry and pass final orders. The impugned order was passed by the 2nd respondent without conducting any summary enquiry and therefore, the same is liable to be set aside.

4. A perusal of the impugned order would establish that the 2nd respondent has not conducted any summary enquiry, as directed by the



Division Bench of this Court in ***Sudha Ravi Kumar's case [cited supra]***.

The Division Bench of this Court in the above mentioned case law while considering similar case, observed as follows:

“25. 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 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.

26. In view of the above discussions, all the writ petitions are allowed and the impugned orders are set aside with the following directions:

(i) The registering authority before whom the document has been presented shall cause service of notice on the parties to the deeds and also to the objector / religious institution, hold summary enquiry, hear the parties and then either register or refuse to register the document by passing an order having regard to the relevant facts as indicated above.

(ii) If the registering authority, refuses to register any document by accepting the objections raised under Section 22-A of the Registration Act, the aggrieved may file a statutory appeal under the Act.

(iii) If the objections raised under Section 22-A of the Act by the



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religious institution are rejected and the document is registered, the remedy for the religious institution is to either approach this Court by way of a writ petition seeking cancellation of the registration or for any other relief or to approach the civil Court for declaration of the title and for other consequential reliefs.

(iv) If the registering authority refuses to register the document acting on the objections raised by a religious institution under Section 22-A of the Registration Act, the parties to the deed will be at liberty to straightaway approach the Civil Court for declaration of title and other relief without availing the opportunity for filing a statutory appeal.

(v) We further direct that if the deed has already been registered without there being any objection by the religious institution under Section 22-A of the Act, the document shall be returned to the parties concerned leaving it open for the religious institution to approach either the High Court under Article 226 of the Constitution of India or the Civil Court for appropriate relief as indicated above. At any rate, the registering authority shall not withhold the deed which has already been registered.

(vi) Consequently the connected miscellaneous petitions are closed.
No costs”

5. In view of the law laid down by the Division Bench in the above mentioned case law, the 2nd respondent ought not have rejected the document presented for registration simply on the ground that the 3rd respondent raised an objection claiming right over the property. The 2nd respondent is



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expected to conduct a summary enquiry, by giving opportunity to the petitioners and also the 3rd respondent and take a final decision, as per the directions issued by the Division Bench in the above mentioned case law.

6. Therefore, the impugned Refusal Check Slip dated 22.03.2024, is set aside. The matter is remitted back to the file of the 2nd respondent with a direction to conduct a summary enquiry as indicated above and pass final orders within a period of six weeks from the date of receipt of a copy of this order. The Writ Petition stands allowed. No Costs.

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Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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S.SOUNTHAR, J.

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To

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