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W.P.No.30183 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2024

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.30183 of 2024
and WMP.No.32863 of 2024

Mir Ashfaq Ali

... Petitioner

Vs.

1.The Sub Registrar Triplicane,
Sub Registration Office,
Triplicane, Chennai – 14.

2.The District Registrar,
Chennai Central, Office of the District Registrar,
Chennai.

3.The Inspector General of Registration,
Office of the Inspector General of Registration,
Santhome, Chennai.

4.Tamil Nadu Wakf Board,
Rep by Chief Executive Officer,
No.1, Jaffer Syrng Street,
Vallal Seethakari Nagar, Chennai – 1.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, calling for the records of the 1st



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respondent in RFL/Triplicane/48/2024 dated 26.07.2024 and quash the same and consequently direct the respondents 1 to 3 to register and release the document being the sale deed dated 26.07.2024 to the petitioner after hearing the petitioner if required and conducting enquiry as laid down by a decision of the Hon'ble Division Bench of this Court reported in 2017 (3) CTC 135 in the case of Sudha Ravi Kumar Vs. The Special Commissioner.

For Petitioner : Mr.I.Kowser Nissar
For Respondents : Mr.M.Shahjahan
Special Government Pleader
for R1 and R2

ORDER

By consent of both the learned counsel appearing for the petitioner as well as respondents, this writ petition is disposed of at the admission stage itself.

2. Aggrieved by the impugned refusal slip issued by the respondent refusing to register the sale deed presented for registration on the ground that he received objection letter from the Wakf Board claiming right over the property, the petitioner has come before this Court.



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3. The learned counsel for the petitioner assailed the impugned order on the ground that objection raised by the Wakf Board was upheld without hearing the petitioner and therefore, it is in violation of principles of natural justice.

4. The Division Bench of this Court *in Sudha Ravi Kumar Vs. Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department* reported in **2017 (3) CTC 135** issued certain guidelines for the registering authorities with regard to the manner how the objections from religious institutions shall be considered. The relevant paragraph reads as follows:

“25. 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 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



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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 of this Court, registering authorities are expected to conduct preliminary enquiry by giving sufficient opportunity to the objector and take a decision with regard to the registration. If any party is aggrieved by the decision taken by the registering authority, the same can be challenged in the manner known to law as mentioned in the above Division Bench order. A perusal of the impugned order would suggest the same has been passed by the respondent merely on the basis of the objection received from the Wakf Board without conducting any preliminary enquiry as directed by the Division Bench. Therefore, the refusal check slip is quashed and the writ petition stands allowed. The matter is remanded back to the file of the first respondent to conduct preliminary enquiry with regard to the objection raised by the petitioner and pass final orders, after giving sufficient opportunity to the



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petitioner and the objector within a period of four weeks from the date of receipt of copy of this order.

6. Accordingly, this writ petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

15.10.2024

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

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