



Order dated 06.02.2024 in
W.P.No.36517 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.02.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.36517 of 2023

--

R.Thulasidas Rao @ Thulasi Doss Rao
S/o V.R.Ramachandra Rao

.. Petitioner

Vs.

1. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Chennai-600 001.

2. The Sub-Registrar,
Triplicane,
Chennai-600 014.

3. The District Registrar,
Bharathi Salai,
Royapettah,
Chennai-600 014.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings of the third respondent, dated 19.10.2023 in Mae.Moo.No.10363/Aa1/2023 issued by the third respondent and quash the same and issue consequential direction to the second respondent to register the settlement deed dated 23.08.2023 executed by the petitioner herein in favour of (i) Mrs.R.Kasthuri Bai (ii) Mr.T.Ramkumar Prasad.



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For petitioner : Mr.N.S.Siva Kumar

For respondents: R-1 No appearance

Mr.B.Vijay, Addl.G.P. for RR-2 and 3

ORDER

The petitioner has filed the above Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings of the third respondent, dated 19.10.2023 in Mae.Moo.No.10363/Aa1/2023 issued by the third respondent and quash the same and issue consequential direction to the second respondent to register the settlement deed dated 23.08.2023 executed by the petitioner herein in favour of (i) Mrs.R.Kasthuri Bai and (ii) Mr.T.Ramkumar Prasad.

2. The petitioner has earlier produced the document in question for registration before the second respondent, who passed the refusal check slip, against which, an appeal was preferred before the third respondent, who had passed the impugned order stating that the petitioner has not produced any parent document tracing the title, against which the petitioner has filed the present Writ Petition before this Court.

3. Learned counsel for the petitioner submitted that the vendor of the petitioner purchased the property from the Wakf Board under Registered Sale

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deed, dated 28.07.1974 and subsequently, the petitioner purchased the property from him. Originally, the vendor of the petitioner was a tenant under the Wakf Board, which filed a petition to evict the tenant, whereas the vendor of the petitioner invoked Section 9 of the Chennai City Tenants Protection Act, and since he had put up superstructure, he invoked Section 9 and the Tribunal/Rent Controller has passed an order under the Chennai City Tenants Protection Act and based on that, the President of the Tamil Nadu Wakf Board executed a sale deed in favour of the vendor of the petitioner herein, but without conducting any enquiry, the first respondent had passed the order, which was challenged in the appeal before the third respondent, who also, without conducting any enquiry, directed the second respondent to conduct enquiry and pass order. Accordingly, after enquiry, the third respondent has passed the impugned order, which is under challenge in this Writ Petition.

4. Learned Additional Government Pleader appearing for the respondents 2 and 3 submitted that the property belongs to the Wakf Board and therefore, Section 22-A of the Registration Act is very clear that if the property belongs to the Wakf Board, they cannot register the document and if any document is executed/mortgaged/transferred, the same is void under Section 51 of the Wakf Act and if at all the Wakf Board wanted to sell the property, they can do it only with the prior permission of the Court and hence, the petitioner has to get the



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No Objection Certificate from the Wakf Board before the sale. The petitioner if at all is claiming title from the Wakf Board, then they have to get No Objection Certificate from the Wakf Board. The respondents have rightly instructed the petitioner to produce the No Objection Certificate from the Wakf Board and instead of producing the No Objection Certificate, the petitioner has challenged the present impugned order before this Court, and therefore, it is against law and the petitioner is not entitled to the relief sought for.

5. Though the first respondent/Wakf Board was served with notice and the name is also printed in the cause list, no counsel appears and there is no representation for them.

6. Heard both sides and perused the materials available on record.

7. The property originally belongs to the Wakf Board and the petitioner has claimed the property from his vendor, who purchased the property from the Wakf Board. Learned counsel for the petitioner stated that they have obtained decree from the Rent Controller under the Chennai City Tenants Protection Act and no document is produced and no Resolution is produced to show that the vendor or the Wakf Board is the competent authority to execute the sale deed in favour of the petitioner in the manner known to law. Therefore, in the absence of the same, this Court cannot decide that the petitioner is entitled to the relief sought for in this Writ Petition.



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8. Further, admittedly, the petitioner has not produced all the parent documents and especially when the official respondents directed the petitioner to produce the No Objection Certificate (NOC) from the Wakf Board, the petitioner has to produce the same, but he had not produced the said NOC from the Wakf Board.

9. In the above facts and circumstances, this Court does not find any illegality or infirmity or irregularity in the impugned order passed by the third respondent. Accordingly, the Writ Petition is dismissed. However, the petitioner is at liberty to work out his remedy in the manner known to law. There shall be no order as to costs.

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To

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