



W.P.No.29037 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

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Masakka Gounder

...Petitioner

-Vs-

1.The District Registrar,
Registration Department,
Coimbatore.

2.The District Registrar,
Registration Department,
Tiruppur.

3.The Sub-Registrar,
Registration Department,
Avinashi,
Tiruppur District.

4.The Superintendent of Wakfs,
Coimbatore-Nilgiris-Tiruppur,
14-15, Mosque Buildings,
Coimbatore – 641 018.

...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 Certiorarified Mandamus, calling for the records relating to the impugned communication of the first respondent herein dated 22.01.2008 passed in No.18042/B1/2007-



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2 enclosing the extract dated December 2007 issued by the fourth respondent herein, quash the same and consequently direct respondents 2 and 3 herein to register the documents pertaining to the petitioner's Plot measuring 8717 square feet in S.F.No.128/3, Muriyandampalayam Village, Avanashi Taluk, Tiruppur District (J.P.G. Nagar) as and when presented for registration and pass such further orders.

For Petitioner : Mr.K.Govi Ganesan
For R1 to R3 : Mr.P.Anandakumar
Government Advocate
For R4 : Mr.S.Haja Mohideen Gisthi
Standing Counsel

ORDER

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned communication of the first respondent herein dated 22.01.2008 passed in No.18042/B1/2007-2 enclosing the extract dated December 2007 issued by the fourth respondent herein, quash the same and consequently direct respondents 2 and 3 herein to register the documents pertaining to the petitioner's Plot measuring 8717 square feet in S.F.No.128/3, Muriyandampalayam Village, Avanashi Taluk, Tiruppur District (J.P.G. Nagar) as and when presented for registration.

2. The facts of the case in a nutshell:-



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2.1 The lands in S.F.No.128 situated at Muriyandampalayam Village, Avinashi Taluk, Tiruppur District measuring about 8.65 acres and other properties originally belonged to one Hamaludin Sahib and Abdul Kafoor Sahib, sons of Ghouse Sahib. Hamaluddin Sahib was entitled to Northern half portion measuring an extent of 4.32 ½ acres vide Registered Sale Deed dated 08.05.1944 and Abdul Kafoor Sahib was entitled to Southern half portion to an extent of 4.32 ½ acres in S.F.No.128 vide Registered Sale deed dated 03.05.1945. After the death of Hamaludin Sahib, his son Allah Baksh succeeded to the share of his father and he was in absolute possession and enjoyment of the same. Subsequently the above said lands were declared as Inam lands in T.D.No.92, Khaji Inam by the Government of Tamilnadu under Madras Minor Inam (Abolition and Conversion into Ryotwari) Act, 1963 and enquiry was conducted under Section 11 of the said Act. The Settlement Tahsildar, Gobichettipalayam by his order dated 14.12.1966 passed in S.R.No.441 MI Act/Avanashi Taluk. 66, after due enquiry, abolished the Inam Tenure of the above said lands and granted Ryotwari Patta to the above said Alla Baksh and Abdul Ghafoor Sahib to their respective shares.

2.2 After the death of Abdul Ghafoor Sahib, his legal heirs partitioned their family properties including the Southern portion of the above said S.F.No.128 measuring an extent of 4.32 ½ acres vide Registered Partition



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deed dated 07.11.1977. In the said partition, S.F.No.128 measuring about 4.32 ½ acres was allotted in common to sisters Minor C.A.Lakin Jan and C.A.Balkis Jan and the same was described as "F" Schedule in the said Partition Deed. After that the said extent was sub-divided as S.F.No.128/3 by the Revenue Authorities and Mutation also took place in the Revenue Records and patta was also transferred in their name. Even though the allotments was for 4.32 ½ acres as they were in actual possession and enjoyment of 4.69 acres Patta was granted to an extent of 4.69 acres.

2.3 Subsequently one of the sisters, C.A.Balkis Jan filed a suit in O.S.No.652 of 1993 against C.A.Lakhin Jan for partition and separate possession of her share of properties on the file of the District Munsif Court, Avinashi (Renumbered as O.S.No.146/1996) and the decree was passed on 23.03.1994 directing to divide the properties in two shares. In the Final decree proceedings in I.A.No.199 of 2001, dated 19.09.2001 the entire extent of 4.69 acres in S.F.No.128/3, Muriyandampalayam Village was divided into two shares viz., the Northern portion of the said Survey Field measuring 2.34 1½ acres was allotted to Balkis Jan and the Southern portion measuring 2.34 1½ acres was allotted to Lakin Jan. Both the above said persons were in absolute possession and enjoyment of their respective shares. Subsequently,



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CA. Lakin Jan executed a Power of Attorney dated 08.12.2003 and registered the same vide Document No. 474/2003 in SRO, Avinashi to and in favour of one Eswaran, appointing him as her Power Agent to deal with the property including Power of Alienation.

2.4 The said Power Agent Eswaran laid the entire extent of 2.34 ½ acres into house sites and obtained technical approval from Director of Town and Country Planning in his proceedings in Na.Ka.No.7486/2004, dated 19.05.2004. The Developer also executed a Gift deed dated 26.10.2004 to and in favour of Muriyandampalayam Panchayat gifting 8610 square feet for Park and Play grounds and the same has been accepted by the Panchayat and acted upon. Muriyandampalayam Panchayat also granted approval for the layout in Ref.No.92/2004. It is pertinent to point out that the Tahsildar, Avanashi has also issued 'No Objection' for the same.

2.5 After verifying the title and after getting legal opinion from the Advocate the petitioner purchased 8717 square feet plot vide Registered Sale Deed dated 01.09.2003 with specific boundaries. Mutation has also taken place in the revenue records and electricity service connection was also granted. The purchasers of the site have named the Lay out as "J.P.G. Nagar"



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and have also formed an Association namely J.P.G. Nagar Residents Welfare Association" for protecting their interest and for exposing the common cause.

During the month of June 2015, one of the plot owners wanted to sell his plot to a third party and when he went to the third respondent office to enquire about the guideline value he was shocked and surprised to receive the reply that the plots in S.F.No.128, Muriyandampalayam Village cannot be registered as there was objections from fourth respondent herein. The copy of the said proceedings dated 22.01.2008 was also furnished under RTI Act. Based on the said communication, the third respondent herein is refusing to entertain any registration over the above said subject matter, which is illegal and arbitrary.

3. Learned counsel for the petitioner submitted that already JPG Nagar Residents Welfare Association has challenged the above proceedings by filing W.P.No.35014/2015 before this Court and the petitioner has not joined in the said writ petition. Hence, he approached this Court by way of filing this present writ petition.

4. Learned counsel relied upon the order passed by this Court in ***W.P.No.35014 of 2015 dated 07.06.2023, J.P.G.Nagar Residents Welfare***



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Association, represented by its President, S.Thirunavukarasu, No.128/3

(South), Muraiandampalayam Village, Sathi Main Road, Sevoor, Tiruppur

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and others, which held as follows:

“7. In the present case, the order impugned itself reveals that the subject property is the Hereditary Wakf Deed. Therefore, the petitioner Association has to approach the Competent Civil Court of Law for the purpose of establishing their title or ownership.

8. The Registrars are incompetent to decide the title and they have proceeded in accordance with the provisions of the Registration Act and refused to register the documents.

9. That being the factum, the issues raised by the petitioner require an adjudication. More specifically, about the title.

10. Thus the petitioner-Association is at liberty to approach the Competent Civil Court of Law for redressal of their grievances.”

5. A counter affidavit was filed on behalf of respondents 1 to 3 dated 30.12.2023.

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



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7. In view of the above factual matrix of the case and the ratio laid down by this Court in *W.P.No.35014 of 2015 dated 07.06.2023*, the petitioner is at liberty to approach the Competent Civil Court of Law for redressal of his grievances.

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

28.06.2024

cda

Index : Yes/No

Speaking / Non-Speaking Order

To

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