



W.P (MD).No.3535 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.12.2024

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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M.Jeevananth

...Petitioner

Vs.

1.The Sub-Registrar,
West Karur Registration Office,
Karur.

2.The Superintenant of Wakf,
Trichy Region,
No.8/124 2nd Floor,
Quide Milleth Road,
Palakarai, Trichy-8.

3.Avar Mosque Wakf,
Represented by its Muthavalli,
Ganda Podikar Street,
Karur-639 001
now at Kannara Sandhu,
Karur Town, Karur-639 001.
(R3 is impleaded vide Court order
dated 21.11.2024)

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.317/2022 dated 25.07.2022 passed by the first respondent and quash the same as illegal and ultravires and consequently direct



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the first respondent to register the settlement deed, dated 25.11.2021 and release the same.

For Petitioner : Mr.AN.Ramanathan
For R1 : Mr.D.Sadiq Raja
Additional Government Pleader
For R2 : Mr.G.Chandrasekar

ORDER

This writ petition has been filed challenging the refusal check slip issued by the first respondent dated 25.07.2022, thereby, refused to register the settlement deed, dated 25.11.2021, which was presented for registration, on the ground that the property belongs to Wakf and they made an objections, therefore, there is a bar under Section 22-A of the Registration Act.

2. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3. The property comprised in Town Survey No.17/1 and 19/1 to an extent of 3700 sq.ft situated at Ward No.3, Karur Municipal Town, Ramakrishnapuram, Inam Karur Village, Karur owned by the petitioner's father and others by the registered sale deed dated 05.08.1989. In the year 1999, there



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was a dispute between the family members in respect of dividing the property and as such, the petitioner's father and family members filed a suit for partition in O.S.No.225 of 1999, on the file of the Sub-Court, Karur. While pending the suit, there was a compromise between the family members and the compromise memo was entered between the parties. Accordingly, the suit was decreed by the judgment and decree dated 20.09.1999. As per the decree, the subject property was allotted in favour of the petitioner's father and accordingly, the revenue records were mutated in his favour, while being so, he died on 21.08.2021 leaving the petitioner, his mother, grand-mother and one daughter as legal heirs. Thereafter, all the other legal heirs settled their share in favour of the petitioner by the settlement deed dated 25.11.2021. The settlement deed was presented for registration, however, there was an objection by the second respondent and the refusal check slip was issued and the same was challenged before this Court in W.P(MD)No.2943 of 2022. This Court by an order dated 15.02.2022 quashed the impugned order and directed the first respondent to consider the objection and dispose of the same on merits after conducting enquiry. As directed by this Court, though the first respondent issued notice to all the parties concerned, no one was appeared and even then, the first respondent passed the same order thereby, refused to register the settlement deed on the ground that the subject property belongs to wakf.



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4. On a perusal of the communication from the second respondent to the first respondent dated 20.03.2008 revealed that they mentioned the property comprised in T.S.No.13 to 19, in which to an extent 6500 sq.ft they are claiming to be a owner. Whereas, the petitioner's father was allotted the property to an extent of 3700 sq.ft comprised in S.No.17/1 and 19/1. Therefore, the first respondent rightly rejected the settlement deed which was presented for registration.

5. In this regard, the Hon'ble Division Bench of this Court in the case of ***Sudha Ravi Kumar & Others Vs. The Special Commissioner and Commissioner, Hindu Religious and Charitable Endowments Department and Others*** reported in ***2017 (3) CTC 135*** held as follows:

“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



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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 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."



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6. Therefore, if the registering, authority after conducting enquiry under Section 22-A of the Registration Act, rejected the request, the petitioner ought to have approach the Civil Court for appropriate relief in respect of the subject property. Accordingly, the writ petition is devoid of merits and it is liable to be dismissed.

7. In the result, the writ petition is dismissed with liberty to file an appeal before the appellate authority. No costs.

Internet : Yes
Index : Yes/No
Speaking/Non Speaking order
am

19.12.2024

To

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