



W.P.(MD)No.27100 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD)No.27100 of 2019
and WMP(MD) No.23443 of 2019

S.Kaja Moideen

... Petitioner

Vs

1. The District Registrar,
O/o.District Registrar, Court Campus,
Pudukkottai.

2. The Sub Registrar,
Illuppur Sub Registration Office,
Pudukkottai District.

3. The Wakf Inspector,
Tamil Nadu Wakf Board,
Pudukkottai.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus call for the records relating to the impugned order vide No.3801/Aa1/2017, dated 5.6.2017 passed by the 1st respondent and quash the same and consequently directing the 1st and 2nd respondent to register the Sale Agreement dated 5.11.2009 in respect of the immovable properties in Survey Nos.346/2, 346/3, 343/1A and 343/1B situated in Ennai Village, Illuppur within the limits of Sub Registration Office, Illuppur,



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Pudukkottai District.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mr.M.Siddharthan (R1,R2)
Additional Government Pleader
Mr.D.S.Haroon Rasheed (R3)
Standing counsel

ORDER

This Writ Petition has been filed challenging the impugned order vide No.3801/Aa1/2017, dated 5.6.2017 passed by the 1st respondent and consequently to direct the 1st and 2nd respondent to register the Sale Agreement dated 5.11.2009 in respect of the immovable properties in Survey Nos.346/2, 346/3, 343/1A and 343/1B situated in Ennai Village, Illupur within the limits of Sub Registration Office, Illuppur, Pudukkottai District.

2.Heard Mr.D.Shanmugaraja Sethupathi, the learned counsel appearing for the petitioner, Mr.M.Siddharthan, learned Additional Government Pleader appearing for the respondents 1 & 2 and Mr.D.S.Haroon Rasheed, learned standing counsel appearing for the third respondent. Perused the materials available on record.



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3.The petitioner has preferred this writ petition challenging the impugned rejection order, which has been passed on the ground that the properties sought for registration are belong to WAKF Board. It is the contention of the learned counsel for the petitioner that the properties are absolutely belong to the petitioner. When the sale agreement was presented for registration, the same was rejected by the registering authorities. The impugned order has been passed based on the objection raised by the third parties and no enquiry has been conducted. The authorities ought to have conducted enquiry as directed by the Division Bench of this Court in W.P(MD) No.2291 of 2011, dated 10.07.2017. Hence, prays to set aside the impugned order.

4.The learned Additional Government Pleader appearing for the respondents 1 & 2 submitted the Proforma of WAKF, wherein, the alleged Survey Nos.345, 346 declared as WAKF properties.

5.The petitioner has sought particulars through the Right to Information Act about the information given by the 3rd respondent to the 1st respondent and filed the same in his typed set of papers. It is seen that Survey



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Nos.345 and 346 belong to WAKF and the same were notified under Gazette.

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6.Once the property is notified as WAKF property, still directing the Sub Registrar to conduct preliminary enquiry to decide the title, is nothing but waste of time. Therefore, the earlier order relied upon by the petitioner, will not be helpful, since the properties were declared as WAKF properties and notified under Gazette.

7.If the petitioner still insist that he is the owner of the property, it is for him to establish his rights before the WAKF Tribunal. Instead of doing so, directing the Sub Registrar to conduct enquiry will not serve any purpose. As per the Wakf Act if any person aggrieved by the publication of the list may apply to the Tribunal having jurisdiction in relation to such property and the decision of the Tribunal thereon shall be final. In such case, it is not possible for the Sub Registrar to go into the issue. It is for the petitioner to establish the same in the manner known to law.



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8.In view of the above observations, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes/No
PNM

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