

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2015

CORAM

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
AND

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. Nos. 500 & 501 of 2015

Haja Noordeen Sahib

@ Alhaj Dr. S.Syed Kamil Sahib

... Appellant
(In both W.As.)

Vs.

1 The Wakf Tribunal (Sub Court)
Nagapattinam.

2 The Tamilnadu Wakf Board
Rep. by its Chairman,
Jaffar Syrang Street
Vallal Seethakathi Nagar,
Chennai-600 001.

3 The Superintendent of Wakfs
Wakf Superintendent Office, 27 Court Road,
Diwan Nagar , Thanjavur.

4 The Managing Trustee,
Rep. by Board of Trustees,
Nagore Dargah Haji S.A. Shaik Hasan Sahib,
Nagore Dargah Office,
Nagore 611 002, Nagapattinam District.

5 The President
Rep. by Advisory Board of Nagore Dargah
Nagore Dargah Office, Nagore 611 002 .

... Respondents 1 to 5
(In both W.As.)

6 Muhalli Muthavalli H. Haja
Najmudeen sahib,
No.7 Manavara North st.,
Nagore 611 002.

... Respondent No.6
in W.A.No. 500/2015

6. S. Sultan Khalifa Sahib
@ Kannuvappa Sahib,
No.7/3 Santha Sahib Street,
Nagore 611 001.

... Respondent No.6
in W.A.No.501/2015

Writ Appeals filed under Clause 15 of the Letters Patent against the common order dated 24.2.2015 passed in M.P. Nos. 1 of 2015 in WP.No.27431 and 27595 of 2014.

M.P.No.1/2014 in w.P.No.27431/2014:

To permit the petitioner to perform the holy ceremonies at the annual Urus Festival 2015.

M.P.No.1/15 in W.P.No.27595/2014:

(ii) To Permit the petitioner to perform the holy ceremonies at the annual Urus Festival 2015 pending disposal of the above W.P.No.27431 & 27595/2014 respectively.

W.P.Nos.27431 of 2014 and 27595 of 2014 have been filed under Article 226 of the Constitution of India, for issuance of a writ of prohibition to prohibit the first respondent, viz., Wakf Tribunal, Nagapattinam from proceeding further with WOP.No.3 of 2014 filed by the Sixth Respondent and second Respondent in the above writ petitions, who is the petitioner in these miscellaneous petitions.

For Appellant

in both W.As.

: Mr. Richardson Wilson

For Respondents 2 & 3

: Mr. V.Lakshminarayanan

For Respondent - 4

: Mr. Srinath Sridevan

For Respondent - 5

: Mr. M. Mohamed Rafi

For Respondent - 6

: Mr. S. Sounthar

(in WA No.500/2015

For Respondent - 6

: Mr. Rajasekaran

(in WA No.501/2015

COMMON JUDGMENT

(Judgment of the Court was delivered by SATISH K.AGNIHOTRI,J.)

The instant intra Court Appeals arise from the order dated 24.2.2015, whereunder, the miscellaneous petitions, filed by the appellant/writ petitioner, have been dismissed holding as under:-

"15. In the light of the above, this Court is fully convinced that the prayer sought for in these miscellaneous petitions cannot be considered as it would virtually amount to ordering the WOP itself, which is now pending before the Wakf Tribunal in WOP No. 3 of 2014 and unless and until the writ petition Nos. 27431 and 27565 of 2014 are decided, the question of the Wakf Tribunal to proceed further in the matter does not arise.

16. For all the above stated reasons, the relief sought for by the petitioner in these miscellaneous petitions cannot be granted. Accordingly, both the miscellaneous petitions are dismissed."

2 We are informed in the course of hearing that the religious ceremony is being performed and the appellant/writ petitioner may be permitted to take part in the religious ceremony, which had commenced earlier and will actually come to an end on 3.4.2015. It further transpired that the religious function is being performed by the fourth respondent

3 At this stage, when the religious ceremony is in progress, we are of the view that all the parties may be permitted to be present and as far as the question of handing over sandalwood paste is concerned, it appears that the Kalifa is entitled to receive the same and apply it on the tomb of the saint.

4 Without going to the merits of the issue, we are of the view that the appellant/writ petitioner may also be permitted to receive a portion of the sandalwood paste for offering performance and may also be permitted to participate in the said function. We make it clear that this order will not create any equitable right in favour of the parties and this order is passed without prejudice to the rights and contentions of the parties in the pending proceedings.

5 These two writ appeals are disposed of accordingly.
Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1 The Wakf Tribunal
Nagapattinam.
 - 2 The Tamilnadu Wakf Board
Rep. by its Chairman,
Jaffar Syrang Street
Vallal Seethakathi Nagar,
Chennai-600 001.
 - 3 The Superintendent of Wakfs
Wakf Superintendent Office, 27 Court Road,
Diwan Nagar , Thanjavur.
- 1 cc to Mr.Richardson Wilson ,Advocate, SR.No.17974
1 cc to Mr.V.Raghavachari ,Advocate, SR.No.18013

W.A.Nos.500 & 501 of 2015

ggk(co)
pmk.31.3.2015

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