



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.01.2015

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (NPD) No.2711 of 2014

and

M.P. (MD) No.2 of 2014

Sivakasi Subhaskhan Gori
Pallivasal and its Subsidiary,
South Pallivasal, Muslim Hanafi
Madahab Jamath,
represented by its Secretary,
E.Syed Jagangeer .. Petitioner/3rd Party

Vs.

1. Sivakasi Subhaskhan Gori
Pallivasal and its Subsidiary,
South Pallivasal, Muslim Hanafi
Madahab Jamath,
represented by its Secretary,
Diwan Basha. .. Respondent/Petitioner

2. Janab A.TAmilmagan Hussain
President, Tamil Nadu Wakf Board,
F-Block, D.No.6, Lloyd's Colony,
Avvai Shanmugam road,
Chennai-600 044. ... Respondent/Respondent

Prayer: Petition is filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in W.O.P.No.2 of 2014, dated 10.10.2014, on the file of the Subordinate Judge, Srivilliputhur.

For Petitioner : Mr.R.Govindaraj

For Respondents : Mr.C.M.Arumugam
for R.1

ORDER

This Civil Revision Petition is challenged by the petitioner claiming himself to be the Secretary of the Sivakasi Subhaskhan Gori Pallivasal and its Subsidiary, South Pallivasal, Muslim Hanafi Madahab Jamath.

2. According to the petitioner, he was not made as a party to W.O.P.No.2 of 2014, which is challenging the proceedings of the Chief Executive Officer (additional in charge), dated 02.07.2014 in proceedings No.7726/2010/B3. As the present petitioner was not a party to the same, he had obtained leave and filed the present Civil Revision Petition.

<https://hcservices.ecourts.gov.in/hcservices/>

3. The learned Counsel appearing for the first respondent questioned the *locus standi* of the petitioner to challenge the said W.O.P.



4. It is contended by the learned Counsel for the petitioner that without challenging the elections, the respondents cannot maintain W.O.P.No.2 of 2014, besides admittedly the Chief Executive Officer of Wakf Board as well as the petitioner herein were not shown as parties in the W.O.P. According to the petitioner, the entire proceedings initiated by the respondent without adding the necessary party is vitiated and *ab initio* void.

5. Heard the learned Counsel for the petitioner and the learned Counsel for the first respondent.

6. It is seen from the records that there was an election and 12 of the Office Bearers have been elected. The impugned proceedings in W.O.P.No.2 of 2014 is challenging the order dated 02.07.2014 empowering the elected members to administer the Wakf between the period from 12.01.2014 to 11.01.2017.

7. It is contended by the petitioner the very W.O.P. is not maintainable without challenging the elections. Besides any proceedings involving a Wakf, with respect to title or possession of the Wakf property or the right of Muthavalli or beneficiary, the Wakf Board should be made as a party. Even the impleadment of the second respondent is only in his personal capacity and not in his official capacity. However he has also been set *exparte* without serving notice on him. In the said circumstances, it is admitted by both the Counsel that the proper course would be to remit the matter back for fresh enquiry. Therefore, the order passed by the Subordinate Judge, Srivilliputhur in W.O.P.No.2 of 2014 is set aside and the matter is remitted back the Subordinate Court, Srivilliputhur for fresh enquiry.

8. It is also consented by both the parties that the present petitioner may be impleaded along with with the Chief Executive Officer in W.O.P.No.2 of 2014. It is open to the parties to make their respective contentions in the W.O.P. about the veracity of the election or any other point they want to raise.

9. With the above observations, the Civil Revision Petition is disposed of. Consequently, the connected Miscellaneous Petition is closed. No costs.

SD/-

Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar

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To

The Subordinate Judge, Srivilliputhur.

+1cc to MR.R.Govindaraj, Advocate SR No.1021

+1cc to MR.C.M.Arumugam, Advocate SR NO.915

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