

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.17369 of 2016

Syed Sha Vajiudeen Aulia Dargha,
Masjid and Burial Ground, Wakf
Represented by its President,
Janab S.Y.Mohammed Ali. ... Petitioner

Vs.

1.The Tamil Nadu Wakf Board,
Represented by its
Chief Executive Officer,
No.1, Valal Seethakathi Nagar,
Chennai 600 001.

2.Syed Naimuddin

3.Syed Mynudin

4.Qutbuddin

5.Syed Jalaluddin

6.Nizamuddin

7.Syed Ahmed Peeran

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 1st respondent to consider the representation dated 24.03.2016 and consequently initiate action against the respondents 2 to 7 and prevent them from interfering in the management of the Syed Sha Vajiudeen Aulia Dargha, Masjid and Burial Ground Waqf and its properties.

For Petitioner :Mr.A.R.L.Sundaresan
Senior Counsel

for Mr.Asghar Ali

For Respondents :Mr.Mohammed Fayaz Ali
for Wakf Board

O R D E R

By consent the writ petition is taken up for final disposal.

2.Mr.A.R.L.Sundaresan, learned Senior Counsel assisted by Mr.Asghar Ali, learned counsel appearing for the petitioner would submit that the Syed Sha Vajiudeen Aulia Dargha, Masjid and Burial Ground, Wakf was notified as early as on 11.02.1959 in the Government of Madras Gazette as pious, religious and charitable Wakf and the object of the Wakf is for support and maintenance of Mosque, Dargha, Makan Musafir Khana, burial ground and tope and the Wakf owns vast extent of lands in Thalayatham Village, Gudiyatham Taluk, Vellore District admeasuring an extent of 17 Acres out of which 5.25 acres have been acquired by the Government of Tamil Nadu for Harijan Colony and the remaining portion of the lands are in possession of the Wakf.

3.The second respondent claiming to be the Muthawalli of the Wakf filed a suit in O.S.No.431 of 1996 on the file of the District Munsif Court, Gudiyatham against the Tamil Nadu Wakf Board and it was dismissed on 10.10.2006 and the appeal filed by him in A.S.No.30 of 2006 has also ended in dismissal on 27.04.2007 and since no further challenge has been made, the said judgment and decree became final. The second respondent has also filed W.P.No.12957 of 2001 challenging the proceedings of the Wakf Board dated 06.07.2001 and it was dismissed on 16.03.2006. The another writ petition filed by him in W.P.No.8775 of 2008 has also ended in dismissal on 19.06.2012.

4.The third respondent who is none other than the brother of the second respondent has also filed a suit against the tenants of the Wakf in O.S.No.45 of 2015 for delivery of vacant possession and also filed similar suit in O.S.No.240 of 2013 and managed to obtain decree on 14.11.2014. The Tamil Nadu Wakf Board taking note of the said irregularities constituted a Committee to administer the Wakf and the respondents 2 and 3 proclaiming themselves to be the Trustees/Mutawalli repeatedly filing suits which has ended in dismissal and ultimately, the first respondent vide proceedings dated 30.03.2015, has re-constituted the Executive Committee and the petitioner deponent of the affidavit was put incharge as the President of the Wakf and charge has also been handed over.

5.It is the submission of the learned Senior Counsel that despite proceedings of the first respondent dated 30.03.2015, the private respondents continue to interfere with the affairs of the Wakf, despite the civil litigation filed by some of them. Therefore, the first respondent is under the obligation to protect the interest of the Wakf and in this regard, the petitioner has also submitted a representation dated 24.03.2016

to the first respondent and since no response is forthcoming, came forward to file this writ petition.

6.Mr.Mohammed Fayaz Ali, learned counsel accepts notice on behalf of the first respondent and seeks time to get instructions as to the operation of any interim orders in the pending civil litigations and in response to the same, the learned counsel appearing for the petitioner would submit that as on today, no interim orders are in operation and prays for disposal of the representation by the first respondent.

7.This Court has considered the rival submissions.

8.This Court taking into consideration the limited scope of the prayer sought for by the petitioner and without going into the merits of the same, directs the first respondent to consider and dispose of the petitioner's representation dated 24.03.2016, on merits and in accordance with law, after taking note of its proceedings dated 30.03.2015 and pass orders, within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as to the private respondents.

9.The writ petition is disposed of accordingly. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To
The Chief Executive Officer
The Tamil Nadu Wakf Board,
No.1, Valal Seethakathi Nagar,
Chennai 600 001.

+2 ccs to Mr.A.Md.Asghar Ali Advocate sr.29540/16

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