

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.19734 of 2016
and W.M.P.No.17065 of 2016

M.Mohammed Hussain

... Petitioner

vs.

1.The Superintendent of Police,
Cuddalore District.

2.The Deputy Superintendent of
Police,
Chidambaram Taluk,
Cuddalore District.

3.The Inspector of Police,
Killai Police Station,
Killai Post,
Chidambaram Taluk,
Cuddalore District.

4.The Tamil Nadu Wakf Board,
rep. by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai-1.

5.Syed Sirajuddin Hussain @
Syed Hussain Basha.

6.R.Jeyaraman

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of declaration, declaring the proceedings of the respondents 1 to 3 dated Nil as displayed in the notice board in the petitioner's property comprised in Killai South Village, Chidambaram Taluk, R.S.No.243/1, to an extent of 1 acre 42 cents and R.S.No.243/5, to an extent of 0.09 cents in all totaling acre 1.65 cents as null and void.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondents: Mr.P.Govindarajan,
Addl. Public Prosecutor,
for R.1 to R.3
Mrs.J.B.Abitha Banu,
for R.4
No appearance for R.5 and R.6

ORDER

The petitioner has come up with the present writ petition for a declaration, declaring that the proceedings of the respondents 1 to 3 dated Nil as displayed in the notice board in his property comprised in Killai South Village, Chidambaram Taluk, R.S.No.243/1, to an extent of 1 acre 42 cents and R.S.No.243/5, to an extent of 0.09 cents in all totalling acre 1.65 cents are null and void.

2. It is the case of the petitioner that he is a tenant in respect of the property comprised in Killai South Village, Chidambaram Taluk, in R.S.No.243/1 measuring to an extent of 1 acre 42 cents and in R.S.No.243/5 measuring to an extent of 0.09 cents in all totalling acre 1.65 cents. The said property belongs to Amin Peer Dargah. Right from the year 1985, the petitioner is in possession and enjoyment of the same by cultivating the same. Since the fifth respondent, the Muthavalli of the Wakf refused to receive the rent, the petitioner filed a suit in O.S.No.146 of 2015 for mandatory injunction directing the fifth respondent to receive the rent. In these circumstances, the fifth respondent through his power agent, had executed a registered lease deed dated 16.9.2015 vide document No.1598/15 in favour of the sixth respondent in respect of the said property for a period of 98 years. When the petitioner is in possession, the lease in favour of the sixth respondent is illegal and void by virtue of Section 51 of the Wakf Act, 1995. While so, the sixth respondent filed a writ petition before this Court in W.P.No.38591 of 2015 seeking a direction to the respondents 2 and 3 to consider his representation and to provide police protection to the said property. In the said writ petition, this Court, by an order dated 9.12.2015, directed the respondents 2 and 3 to consider his representation after hearing the necessary parties. Pursuant to the same, the second respondent called the petitioner for enquiry vide summons dated 7.1.2016 and 8.1.2016. The petitioner also appeared for enquiry and submitted the necessary documents. The third respondent vide proceedings dated 12.1.2016 informed that the matter is purely civil in nature and litigations are pending in the civil Court and directed the parties to approach the appropriate Court for appropriate relief. While so, the respondents 1 to 3 demolished the compound Wall and put up a notice board that the above said property belongs to the sixth respondent by virtue of the lease deed bearing document No.1598/15 and by virtue of the order of this Court made in W.P.No.38591 of 2015 and if anybody enters into the property, they

would be punished. Hence, challenging the same, the petitioner has come up with the present writ petition for the relief set out earlier.

3. Learned counsel appearing for the petitioner submitted that this Court in W.P.No.38591 of 2015, has only directed the respondents 2 and 3 to consider the representation given by the sixth respondent for police protection and in the said order, no observation was made with regard to the title of the property. While so, the respondent police, in order to help the sixth respondent, placed a notice board in the said property stating that if anybody enters into the property, they would be punished pursuant to the order of this Court made in W.P.No.38591 of 2015 and also by virtue of the lease deed executed by the fifth respondent in favour of the sixth respondent in document No.1598/15 through his power agent. Hence, the petitioner sought for a direction to the respondents 1 to 3 to declare that the proceedings of the respondents 1 to 3 as displayed in the notice board in the said property are null and void.

4. The fourth respondent, the Chief Executive Officer of the Tamil Nadu Wakf Board, has filed a counter stating that the fourth respondent had already forwarded a communication to the Office of the Sub Registrar, Chidambaram, to cancel the lease deed executed through the power agent of the fifth respondent in favour of the sixth respondent vide document No.1598/15 and the same is pending.

5. The third respondent has also filed an additional counter affidavit, wherein it has been stated that as on date, there is no notice board in the schedule mentioned property and since the matter is purely civil in nature, the respondents 1 to 3 will not interfere with the civil dispute between the petitioner and the sixth respondent. Thus, he sought for dismissal of the writ petition.

6. In view of the said statement made in the additional counter affidavit filed by the third respondent that as on date, there is no notice board in the schedule mentioned property and the respondents 1 to 3 will not interfere with the civil dispute between the petitioner and the sixth respondent, I am of the opinion, no specific direction is necessary in this petition.

7. Hence, recording the said statement made in the additional counter affidavit filed by the third respondent, the writ petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Superintendent of Police,
Cuddalore District.

2.The Deputy Superintendent of
Police,
Chidambaram Taluk,
Cuddalore District.

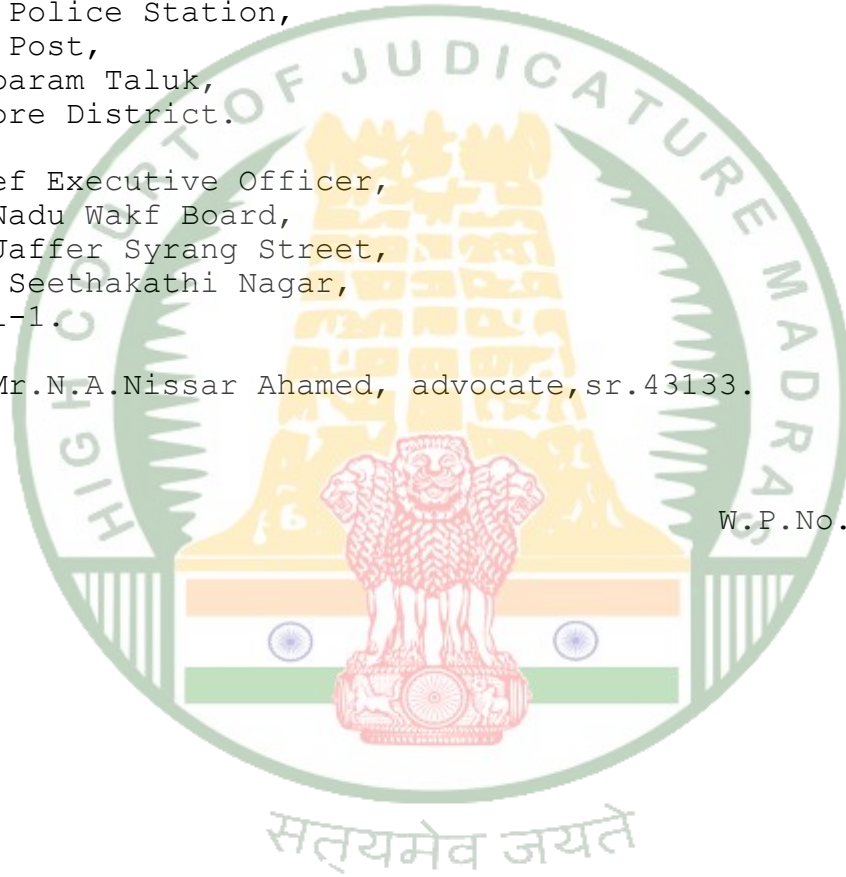
3.The Inspector of Police,
Killai Police Station,
Killai Post,
Chidambaram Taluk,
Cuddalore District.

4.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai-1.

+1 cc to Mr.N.A.Nissar Ahamed, advocate,sr.43133.

msm(co)
krd 17/8

W.P.No. 19734 of 2016



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