

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal No.659 of 2016
and CMP.No.8453 of 2016

The Chief Executive Officer
Tamil Nadu Wakf Board
No.1, Jaffer Syrang Street
Vallal Seethakathi Nagar
Chennai-600 001

...Appellant/3rd Respondent/3rd
Respondent

Vs.

1.Tiruppur Khaderpet Ahle
Sunath Jamath, Musjid and
Madarasa Paribalana Sabai
Rep. By its General Secretary
Mr.S.Majeeth, No.25, Khaderpet,
Tiruppur

...1st Respondent/Petitioner/
Petitioner

2.The Government of Tamil Nadu
Rep. By the Secretary
Department of Minorities Welfare,
Backward and Most Backward
Classes, Fort St.George
Chennai-600 009

3.The Chairman
T.N.Wakf Board
No.1, Jaffer Syrang Street
Vallal Seethakathi Nagar
Chennai-600 001

4.Executive Officer cum Wakf Inspector
Poorviga Palli Mosque Compound
Pollachi Road, Udumalai
Tiruppur District

...Respondents 2 to 4/Respondents
1,2 & 4/Respondents 1,2 & 4

Writ Appeal filed against the order dated 06.01.2015 in M.P.No.1 of 2015 in W.P.No.22 of 2015.

WP.NO.22 of 2015:Pleased to issue a Writ of Certiorari or any other appropriate writ or order or direction, to call for records from the respondents pertaining to Gazette Notification No.VI-3(a)/119/2014 dated 8.12.2014 and quash the same.

MP.NO.1 of 2015 in WP.22/2015:To grant an interim injunction restraining the respondents, this men, servants and agents from anyway disturbing the management of Tirupur Khaderpet Ahle Sumnath Jamath Musjid & Madrasa Paribalana Sabai Wakf, the petitioner herein and its properties pending disposal of the above.

For Appellant : Mr.MD.Fayaz Ali.
For respondents : Mr.V.Lakshmi Narayanan
for R3 and R4
Mr.T.Velumani for R1

JUDGMENT

(Judgment of the Court was delivered by HULUVADI G. RAMESH,J.)

Heard the learned counsel for the appellant, Mr.T.Velumani, learned counsel for the 1st respondent and Mr.V.Lakshmi Narayanan, learned counsel for respondents 3 and 4.

2. In the writ petition filed by the first respondent herein viz., Tiruppur Khaderpet Ahle Sunath Jamath Musjid and Madarasa Paribalana Sabai along with M.P.No.1 of 2015 in W.P.No.22 of 2015, an interim order of stay was passed by order dated 06.01.2015. Paragraph 5 of the said order reads as follows:-

"5. In the light of the above, this Court is convinced that the petitioner has made out a prima facie case for granting interim stay. Accordingly, there will be an order of interim stay. It is made clear that by virtue of interim order granted, no encumbrances shall be created by the petitioner Wakf or any of its properties nor any construction put up in the Wakf property."

3. It is averred in the grounds of appeal that the Writ Petitioner/Tiruppur Khaderpet Ahle Sunath Jamath Musjid and Madarasa Paribalana Sabai, instead of approaching the State Government under Section 65(2) of the Waqf Act, 1995, against the order dated 26.11.2014 filed Original Application in O.A.No.15 of 2014 before the Waqf Tribunal, Chennai, lacking territorial jurisdiction, to restrain the Waqf Board from passing any order pursuant to the enquiry conducted by it. It

is further averred that the Writ Petitioner has no locus standi to initiate the Writ Petition on behalf of the Waqf as his appointment was not approved by the Waqf.

4. In W.P.No.22 of 2015 filed before the learned Single Judge, the writ petitioner/first respondent herein challenged the notification issued by the Government dated 08.12.2014, wherein, a decision was taken to take over management of the writ petitioner's wakf under the direct management of the Tamil Nadu Wakf Board.

5. The learned Single Judge, while considering the facts and circumstances of the case of the Writ Petitioner, granted interim order of stay restraining the respondents therein from disturbing the management of Tirupur Khaderpet Ahle Sunnath Jamath Masjid & Madrasa Paribalana Sabai Wakf and its properties. Against the said order of interim stay dated 06.01.2015, this Writ Appeal is filed.

6. It is seen that this Writ Appeal is filed seeking to vacate the said interim order, almost after 1 1/2 years. But the fact is that the main Writ Petition is yet to be finally adjudicated. In the circumstances, it is for the parties to cooperate for early disposal of the main W.P.No.22 of 2015, so that the matter shall be disposed of at the earliest. It is open to the parties herein to raise all their contentions in the pending Writ Petition. The learned Judge is requested to consider the contentions raised before him and shall dispose of the case on merits.

7. This Writ Appeal is disposed of with the above direction. No costs. Consequently, connected CMP is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

nvsri

To

1.The Chief Executive Officer
Tamil Nadu Wakf Board

No.1, Jaffer Syrang Street

Vallal Seethakathi Nagar Chennai-600 001

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Tiruppur District

+1 cc to Mr.Mohammed Fayas Ali Advocate sr.31643/16
+2 ccs to Mr.T.Velumani Advocate sr.31708/16

W.A.No.659 of 2016

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