

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2016

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.33181 of 2016

&

WMP Nos.28706 & 28707 of 2016

Haja Noordeen Sahib @
Alhaj Dr.S.Syed Kamil Sahib

... Petitioner

Vs

1.The Managing Trustee
Rep. by the Board of Trustees
Nagore Dargah, Nagore-611 002.

2.The President
Rep. by Advisory Board
Nagore Dargah, Nagore-611 002.

3.The Wakf Tribunal
Nagapattinam.

4.The Tamil Nadu Wakf Board
Rep. by its Chairman
Jaffar Syrang Street
Vallal Seethakathi Nagar
Chennai-1.

5.The Superintendent of Wakfs
Wakf Superintendent Office
27 Court Road, Diwan Nagar
Thanjavur Town and District.

6.Muhalli Muthavalli H.Haja Najmudeed Sahib

7.S.Sultan Kalifa Sahib @ Kannuvappa Sahib
(R6 & R7 are impleaded as per the order passed by
this Court in WMP Nos.30777 & 30867/2016 in
W.P.33181/2016 dt 22.11.2016)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the letter issued by the 1st respondent in R.O.C.No.269/2016 dated 16.09.2016 and

to quash the same and consequently direct the respondents to conduct the election after the period of office of the 1st respondent which comes to an end on 01.12.2016 or on the alternative to include the petitioner also to participate in the meeting of the Board of Trustees as a representative of the Eight Trustee of the Eighth Family of Mr.Haja Vanjore Packir Sahib alias Chinna Thambi Sahib to elect the Managing Trustee.

For Petitioner : Mr.S.HajaMohideen Gisthi

For Respondents : Mr.S.Srinath Sridevan - R1

Mr.V.Lakshmi Narayanan-R3, 4 & 5

Mr.S.Southar -R6
Senior Counsel

Mr.K.Rajasekaran -R7

O R D E R

Heard Mr.S.HajaMohideen Gisthi, learned counsel for the petitioner, Mr.S.Srinath Sridevan, learned counsel for the first respondent, Mr.V.Lakshmi Narayanan, learned counsel for the respondents 3, 4 & 5 and Mr.S.Southar, learned Senior Counsel for the 6th respondent and Mr.K.Rajasekaran, learned counsel for the 7th respondent. By consent, the Writ Petition itself is taken up for final disposal.

2.The petitioner has come forward with this Writ Petition for quashing the letter issued by the first respondent, the Managing Trustee of the Board of Trustees, Nagore Dargah, Nagore, fixing the date of meeting for electing a Trustee to the vacancy which is fallen, on account of the demise of the 8th Trustee and such meeting was to be convened on 22.09.2016.

3.The learned counsel for the petitioner contended that there are eight contenders to the said Post Trustee and the matters are pending before the Civil Court as well as Wakf Tribunal. The parties are before this Court in several Writ Petitions and Civil Revision Petitions, questioning the jurisdiction of the Civil Court/Wakf Board, to entertain the matter. The larger issue which is pending before this Court is as to whether the issue can be adjudicated by the Civil Court or by the Wakf Tribunal. In fact, this Court fixed a date of hearing the batch of cases with the consensus of the parties and the matter was to be heard on 17.10.2016. After all the parties were agreeable to the said date, suddenly, the first respondent has issued the impugned notice, which has been challenged by the petitioner.

4. At the time when the Writ Petition was entertained, the following interim order was passed on 21.09.2016:

"Heard Mr.S.Haja Mohideen Gisthi, learned counsel for the petitioner and Mr.V.Lakshmi Narayanan, learned counsel, accepting notice on behalf of respondents 3 to 5.

2. The contentions raised by the petitioner is that, when the earlier Writ Petition and Civil Revision Petition are pending before this Court, and the Court has been passing orders from time to time, last of such order, having been passed on 01.09.2016, the first respondent, in a surreptitious manner, has issued the impugned notification, for electing the Managing Trustee, whose terms of Office, admittedly, will come to an end only on 01.12.2016. There is an allegation that the impugned notification is anti dated, and the same was done only after this Court passed interim orders on 01.09.2016.

3. It is submitted by the learned counsel appearing for the respondents 3 to 5 that, if the Managing Trustee is elected, the tenure to hold the said post is only for a period of three years, whereas, the Trustees are elected for life.

4. The litigation, which is pending before this Court is an offshoot of the claim made by the petitioner to be entitled to be a eighth Trustee of the Trust, on account of the vacancy arising out of the death of an existing Trustee. Therefore, if the Meeting is allowed to be proceeded with tomorrow (22.09.2016), in the prima facie view of the Court, it would precipitate the matter further, and would have an impact on the Civil Revision Petition and Writ Petition pending before this Court, which have been directed to be listed on 17.10.2016, with the consent of the parties, i.e., including the learned counsel appearing for the petitioner and the first respondent, when the case came up for hearing on 01.09.2016.

5. In the light of the above, there will be an order of interim stay. Notice to respondents, returnable by 06.10.2016. Private notice is also permitted."

5. Mr. Srinath Sridevan, learned counsel appearing for the first respondent submits that following the interim order granted by this Court, meeting has not been conducted.

6. Since the larger issue is pending in a batch of cases, the first respondent shall not call for a meeting and shall abide by

the result of the batch of cases, which will be posted for disposal during First week of December 2016.

7. In the light of the above, the Writ Petition is allowed and the impugned notices are set aside. All the parties shall abide by the orders that will be passed in the other batch of cases, which is pending before this Court, questioning the jurisdiction of Civil Court/Wakf Board. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

rpa

To

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Jaffar Syrang Street
Vallal Seethakathi Nagar
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5. The Superintendent of Wakfs
Wakf Superintendent Office
27 Court Road, Diwan Nagar
Thanjavur Town and District.

+1cc to Mr.V.Ragavachari, Advocate, S.R.No.67746
+2cc's to Mr.S.HajaMohideen Gisthi, Advocate, S.R.No.67767
+1cc to Mr.K.Rajasekaran, Advocate, S.R.No.68435
+1cc to Mr.S.Prabhu, Advocate, S.R.No.68525

W.P.No.33181 of 2016

PPA(CO)
CA(05/12/2016)