

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.6414 of 2016

& W.M.P.No.5711 of 2016

Vada Kovai Ahlay Sunnath Jama-ath
Pallivasal & Kabarasthan,
rep. by its Secretary M.L.Mohammed Ali,
No.238, Mettupalayam Road,
Coimbatore-641 043. ... Petitioner

Vs.

1. Tamil Nadu Waqf Board,
rep. by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai-600 001.
2. The Superintendent of Waqfs,
14-15, Mosque Buildings,
Avinashi Salai, Coimbatore-641 018.
3. A.Abdul Azeez ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the first and second respondents to restrain the third respondent and his henchmen from interfering with the peaceful administration and management of the petitioner, including financial administration, by the recognised, approved Committee of Management.

For Petitioner : Mr.S.Haja Mohideen Gisthi

For Respondents : Mr.Lakshmi Narayanan for RR-1 & 2

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the first and second respondents to restrain the third respondent and his henchmen

from interfering with the peaceful administration and management of the petitioner, including financial administration, by the recognised, approved Committee of Management.

2. The Secretary of the petitioner-Mosque has sworn to the affidavit filed in support of the Writ Petition stating that the petitioner is a Jama-ath established for the welfare of Muslim community people of the locality, to provide education for the poor children, financial assistance to the needy--Baithulmal and marriage assistance--Nikkah and religious education--Madarasa. It was constituted on 16.01.1966 and registered as a Waqf in 1989 with the first respondent-Waqf Board and it is bounded with Muhalla upto the Housing Unit in North, Cowley Brown Road in South, Thadagam Road in West and Second Railway Bridge in East. It is stated that 7% contribution was duly paid by the petitioner to the first respondent. The administration of the Jama-ath is by a Committee of 20 members and the financial source of administration is by way of collection of subscriptions from its members. Due to communal violence in 1998, the petitioner-Mosque and its office was ransacked and files were burnt. The petitioner-Mosque is the absolute owner of the immovable property measuring 1.75 acres in Mettupalayam Road, Coimbatore, which was assigned by the Government in 2008 and when disputes over the same, the Court concerned was approached, apart from Government peace talks. With regard to the election for 20 member-Committee from its 439 members in June-July 2005, the first respondent, without any enquiry, issued notice, dated 27.07.2005, directing the Secretary not to proceed with the election process and to include all male members of 18 years and above, from the Mohalla as members and to take steps to elect 21 members for the Committee instead of 20, by secret ballot. The petitioner-Mosque replied on 05.09.2005 to the said notice putting forth their case, and on receipt of the reply, the first respondent, vide letter dated 20.10.2005, directed the Secretary of the petitioner-Mosque to proceed with the election as per the original schedule. Subsequently, the election was conducted and successful candidates were chosen for the Committee to manage the affairs of the petitioner-Mosque. By another letter, dated 16.01.2006, the first respondent directed the petitioner to conduct fresh elections and to submit accounts from 1989 onwards with records, aggrieved against which, the petitioner-Mosque filed O.S.No.64 of 2007 before the Principal Sub-Court, Coimbatore and by judgment and decree dated 25.07.2008, permanent injunction was granted restraining the first respondent from interfering with the elections of the petitioner-Mosque and from demanding any accounts from 1989, as against which, C.R.P.(NPD).No.243 of 2009 filed before this Court by the first respondent herein and another, was dismissed for non-prosecution on 25.04.2011.

3. It is the further case of the petitioner that when some unscrupulous elements headed by A.Abdul Hameed @ Hameed Hajiar interfered with the administration of the Mosque and immovable property, under the guise of the approved Committee by the first respondent, the petitioner-Mosque filed O.S.No.1677 of 2015 on the file of the Principal Subordinate Court, Coimbatore, which is stated to be pending for adjudication. Subsequently, the first respondent issued proceedings, dated 11.12.2015 stating that the petitioner has been registered as a Waqf in terms of the Waqf Act, as amended and thereby, recognised the existing Committee of Management, in which, the deponent of the affidavit filed before this Court in this Writ Petition, is the Secretary. It is stated that a group of 21 persons under the leadership of the third respondent, proclaimed that they had been unanimously chosen as the Committee of Management for the petitioner-Mosque in the General Body Meeting held on 13.12.2015 and the third respondent and his henchmen alleged that they ratify the action in including the new members and issuing new Identity Cards, apart from closing the existing Committee of Management, when the fact remains that no General Body Meeting was held on 13.12.2015 or on any date prior or subsequent to it. None of the representatives of the first and second respondents were present in the alleged meeting. Due to the said action of the third respondent, the petitioner made a representation, which is evident from page 68 of the typed set of papers filed along with the Writ Petition, to various authorities and one of the authorities, namely the Secretary, Housing and Urban Development Department, Chennai, received the said representation on 08.01.2015. Since the said representation is pending, the petitioner has filed this Writ Petition for the above said relief.

4. Heard both sides. In view of the order that is going to be passed in this Writ Petition, there is no need to issue notice to the third respondent.

5. Taking into consideration the above facts and circumstances of the case, this Court is not inclined to give positive direction as sought for by the petitioner. However, without going into the merits of the case, taking into account the fact that the said representation was also submitted to the first respondent, which is fairly conceded by the learned counsel for the first and second respondents, this Writ Petition is disposed of, directing the first respondent to consider the said representation of the petitioner-Mosque and after affording an opportunity of personal hearing to the members of the petitioner-Mosque and other necessary parties, including the

third respondent, dispose of the said representation, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. W.M.P.No.5711 of 2016 is closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Copy to

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

2. The Superintendent of Waqfs,
14-15, Mosque Buildings,
Avinashi Salai, Coimbatore-641 018.

+1cc to Mr.S.Haja Mohideen Gisthi, Advocate Sr.11928

+1cc to Mr.V.Raghavachari, Advocate Sr.11533

W.P.No.6414 of 2016

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srg 11/03/2016

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