



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE S.NAGAMUTHU
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P (MD) No.4542 of 2015

M.A KAREEM KANI
S/O M.S.M. ABUDHHEER NO.1/5 EAST COST ROAD
EARWADI KADALADI CIRCLE
RAMANATHAPURAM DIST.

.. Petitioner

Vs.

- 1 THE STATE OF TAMIL NADU,
REP. BY ITS CHIEF SECRETARY,
ST. GEORGE, FORT CHENNAI.
- 2 THE CHIEF EXECUTIVE OFFICER,
TAMIL NADU WAKF BOARD,
D.NO. 1 JAFFAR SARANG STREET,
SEETHAKKATHI NAGAR,
MANNADI, CHENNAI
- 3 THE WAKF SUPERINTENDENT,
THE OFFICER OF THE WAKF SUPERINTENDENT,
RAMANATHAPURAM.
- 4 HAZARATH SULTHAN SYED IBRAHIM
SHAHEED OLIYULLAH DARGAH
REP. BY ITS MANAGEMENT COMMITTEE
ERWADI, RAMANATHAPURAM DISTRICT.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the 2nd and 3rd Respondent to implement the orders passed in R.C No. 17061/78/B3/RMD dated 28.10.2011 passed under Section 5 (2) of the Wakf Act 1995 (Central Act 43/1995) pertaining to publishing the 4th respondent as Sunni Wakf as per the Survey Report forwarded by the Government of Tamil Nadu by considering the petitioner representation dated 25.10.2013.



WEB COPY

For Petitioner : Mr.K.R.Laxman
For Respondents : Mr.Aayiram K.Selvakumar for R1 & R2
Government Advocate
Mr.M.Mahaboob Athiff for R4 for
M/s.Ajmal Associates
Mr.K.K.Senthil for R3

ORDER

(Order of the Court was made by S.NAGAMUTHU, J.)

The Tamil Nadu Wakf Board issued a notification in Notification No.VI-3(a)/168/2011 in exercise of the power conferred it under sub section (2) of Section 5 of the Wakf Act declaring that the Wakf Wakf Hazarath Sulthan Syed Ibrahim Shaheed Oliyullah Dargha situated in Erwadi Village, Kadaladi Taluk, Ramanathapuram District as Sunni Wakf. The petitioner is a Muslim residing in the said village. He has come up with this writ petition seeking a direction to the respondents to implement the said publication, as according to him, the management of the Wakf has not been taken over by the Wakf Board so far.

2. The learned counsel for the 4th respondent would submit that challenging the above notification, as per the provisions of the Wakf Act, a original petition has been filed before the Wakf Tribunal cum Subordinate Judge, Ramanathapuram, in which, an interim order has also been issued for the opening of the Dargah by the 4th respondent. The learned counsel for the 4th respondent would further submit that if there is any dispute, it is for the parties to work out their remedy only before the Forum constituted under the Wakf Board and not before this Court.

3. In our considered view, since the dispute is already pending before the Wakf Tribunal, in respect of the Dargah, which has been declared as a Sunni Wakf, the petitioner can work out his further remedy before the said Tribunal. In this writ jurisdiction, we cannot go into the disputed question of facts and it is to be resolved by the authorities under the Wakf Act. Accordingly, this writ petition is dismissed leaving it open for the petitioner to work out his remedy before the Wakf Tribunal. No costs.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar



To

1 THE CHIEF SECRETARY,
STATE OF TAMIL NADU,
ST. GEORGE, FORT CHENNAI.

2 THE CHIEF EXECUTIVE OFFICER,
TAMIL NADU WAKF BOARD,
D.NO. 1 JAFFAR SARANG STREET,
SEETHAKKATHI NAGAR,
MANNADI, CHENNAI

3 THE WAKF SUPERINTENDENT,
THE OFFICER OF THE WAKF SUPERINTENDENT,
RAMANATHAPURAM.

+ 1 CC TO Mr.K.K.SENTHIL, ADVOCATE IN SR No. 71499
+ 1 CC TO M/S.AJMAL ASSOCIATES, IN SR No. 71624
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 71628

RR

TE/SKS-RR : 07/12/2016 : 3P/7C

ORDER MADE IN
W.P (MD) No.4542 of 2015
22.11.2016