

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2017

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.20892 of 2017

and

W.M.P Nos.21767 and 21768 of 2017,
26513 and 26636 of 2017

Qalandariya Trust
Rep. by Imatiaz Sharif,
The Managing Trustee,
No. 1A , Alandhur Road, Guindy
Chennai 32. ...Petitioner

Vs

- 1 The District Collector
Singaravelan Maligai,
Chennai District,
Chennai.
- 2 The District Revenue officer,
Chennai District, Chennai-01.
- 3 The Revenue Divisional Officer,
Egmore Division, Chennai 31.
- 4 The Tahsildar,
Mambalam, Guindy Tk ,
Chennai 78.
- 5 The Director,
Kings Institute of preventive Medicine and
Research, Guindy, Chennai 32. ...Respondents

सत्यमेव जयते
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PRAYER:Writ petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorarified mandamus to call for the records pertaining to the proceedings of the 2nd respondent in J5/10231/2017 dated 21.07.2017 and quash the same as illegal, incompetent and ultravires and consequently forbear the respondents from interfering with the religious activities being carried on at Dargahs at S.No.1, Block No.6, Adyar Village, Guindy Taluk , Alandhur Road, Chennai District and circumstances of the case.

For Petitioner: Mr.Jayaprakash
for Mr.K.Suthan
For Respondents: Mr.Manishankar
Additional Advocate General
Assisted by
Mr.A.Kumar
Special Government Pleader.

O R D E R

The petitioner is aggrieved against the proceedings of the second respondent dated 21.07.2017 and consequently, he is seeking for a direction to the respondents not to interfere with their religious activities carried on at at Dargahs at S.No.1, Block No.6, Adyar Village, Guindy Taluk , Alandhur Road, Chennai.

2.Heard Mr.Jayaprakash, learned counsel appearing for the petitioner and Mr.Manishankar, learned Additional Advocate General appearing for the respondents.

3.Though elaborate facts are narrated by both parties in their respective pleadings, this Court, for the time being, is not inclined to go into the same in depth and decide the actual dispute between the parties, since this writ petition can be disposed of by deciding an issue arising out of the impugned order passed by the second respondent lying in a narrow campus. There is no dispute to the fact that in respect of the subject matter property, the petitioner herein suffered an order at the hands of the third respondent through proceedings dated 18.04.2017, holding that the fifth respondent herein is in possession and enjoyment of the property in dispute as the owner of the same and thereby rejecting the request of the petitioner. Admittedly, as against the said order passed by the third respondent, appeal lies before the second respondent. Instead of filing the appeal against the said order, the petitioner made a simple representation on 22.05.2017 before the second respondent, which was rejected by the second respondent through the impugned proceedings holding that the order passed by the

third respondent dated 18.04.2017 was not at all appealed against.

4.Now, it is contended before this court by the petitioner that the said representation made by the petitioner dated 22.05.2017 itself is the appeal preferred against the order of the third respondent. A perusal of the order passed in detail by the third respondent dated 18.04.2017 and the representation made by the petitioner dated 22.05.2017 before the second respondent would undoubtedly show that the said representation of the petitioner is not an appeal filed against the order of the third respondent at all and on the other hand, it was made simply as a representation for conducting some festival, without making any reference to the order passed by the third respondent and raising any ground.

5.Needless to say that the petitioner, if at all aggrieved against the order passed by the third respondent has to only file statutory appeal before the second respondent in a manner known to law by raising the grounds. Therefore, in the absence of any such appeal, I do not find any justification or reason to interfere with the order passed by the second respondent, impugned herein.

6.However, it is open to the petitioner to file an appeal before the second respondent challenging the order of the third respondent dated 18.04.2017 within a period of two weeks from the date of receipt of a copy of this order. If any such appeal is filed, the second respondent will consider the same on its own merits and in accordance with law, after giving an opportunity of hearing to the petitioner as well as other interested parties, if any, including the fifth respondent herein. Such exercise shall be done by the second respondent within a period of eight weeks from the date of presentation of the appeal. Till the disposal of the appeal by the second respondent, the respondents are directed to maintain status quo only in respect of two Samadhis shown in the sketch at Serial No.5 measuring an extent of 262 sq.ft. alone. In all other aspects, interim order of status quo granted already is vacated. The writ petition is disposed of accordingly. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

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To

- 1 The District Collector
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Chennai.
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- 4 The Tahsildar,
Mambalam, Guindy Tk ,
Chennai 78.
- 5 The Director,
Kings Institute of preventive Medicine and
Research, Guindy, Chennai 32.

+1 cc to Mr.K.Suthan Advocate sr 75512

+1 cc to Government pleader sr 75697

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aa03/11/2017

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