

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

WRIT PETITION No.2566 of 2017

Fathima Nachair,
Hereditary Muthavalli,
Shavilajat Fakir Dargah Wakf,
Pallipadai,
No.402/A, Thaikkal Street,
Boodhakeni,
Pallipadai,
Chidambaram - 608 001,
Cuddalore District.

... Petitioner

vs.

1. Tamil Nadu Wakf Board,
rep. by its Chief Executive Officer,
3, Vallal Seethakathi Nagar,
Chennai 600 001.
2. The District Revenue Officer,
Chidambaram,
Cuddalore District.
3. Mohammed Salim
4. Gunasekar

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, directing the 1st respondent to act in terms of Section 52 of Wakf Act, 1995 as well as the second respondent to pass necessary orders after holding an enquiry in respect of the property belonging to 'Shavilajat Fakir Dargah Wakf' pursuant to the representation dated 26.02.2016 and 02.04.2016 made by the petitioner.

For Petitioner : Mr.H.Nazirudeen

For 1st Respondent : Mr.L.S.M.Hasan Fizal

For 2nd Respondent : Mr.P.V.Selvakumar,
Additional Government Pleader

O R D E R

The petitioner has come up with this Writ Petition seeking a direction to the 1st respondent to act in terms of Section 52 of Wakf Act, 1995 as well as the second respondent to pass necessary orders after holding an enquiry in respect of the property belonging to 'Shavilajat Fakir Dargah Wakf' pursuant to the representations dated 26.02.2016 and 02.04.2016 made by her.

2. According to the petitioner, she is the hereditary Muthavalli of Shavilajat Fakir Dargah Wakf, Pallipadai, besides a person interested in Wakf under Section 3(k) of the Wakf Act, 1995 (43 of 1995). The Dargah owns property to the extent of 16.97 acres and the same is relevant in terms of bifurcation. As the Dargah/petitioner is entitled to get a Patta, the petitioner made an application to the Settlement Officer under Rule 9(1) of Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) Rules, 1965 for holding an enquiry to grant patta in favour of Shavilajat Fakir Dargah Wakf.

3. While so, it is the case of the petitioner that respondents 3 and 4 have encroached the Wakf property and are attempting to put up construction therein. Hence, the petitioner made number of objections in person as also by way of representations dated 11.11.2015 and 16.02.2016. Since there is a failure to act in conformity of Section 54 of the Wakf Act, the petitioner issued a legal notice dated 11.03.2016 to the respondents 3 and 4, stating that they have put up superstructure on the wakf land without any right as a lessee under the Wakf, that too without obtaining necessary sanction from the Wakf Board. The grievance of the petitioner is that since the Wakf Board has not taken any initiative, the petitioner has no other avenue except approaching this Court.

4. Heard the learned counsel on either side and perused the material documents available on record.

5. Considering the facts and circumstances of the case, this Court directs the 1st and 2nd respondents herein to consider the petitioner's representations dated 11.11.2015, 26.02.2016 and 02.04.2016 on merits and in accordance with law, after giving notice to the petitioner and respondents 3 and 4, and pass appropriate orders within a period of three months from the date of receipt of a copy of this order.

This Writ Petition is disposed of with the above direction.
No costs. Consequently, connected W.M.P.No.2528 of 2017 is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

aeb
To :

1. The Chief Executive Officer,
Tamil Nadu Wakf Board,
3, Vallal Seethakathi Nagar,
Chennai 600 001.
2. The District Revenue Officer,
Chidambaram,
Cuddalore District.

+1 cc to Mr.H.Nazirudeen Advocate sr 6818
+2 ccs to Government Pleader sr 6818,7448

W.P.No.2566 of 2017

sr(co)
aa24/02/2017

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