

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2017

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P.No.44412 of 2016

N.Dastagir

... Petitioner

Versus

1.The Principal Secretary to Government,
BC, MBC & Minorities Welfare Development,
Secretariat, Fort St.George,
Chennai-600 009.

2.Tamil Nadu Waqf Board
Chennai-1, represented by its
Chief Executive Officer, having
his Office at No.1, Jaffer Shirang Street,
Vallal Seethakathi Nagar,
Chennai-600 001.

3.The Waqf Inspector,
Vellore District, having his office at
No.8, Bahadur Sha Mosque Complex,
Arni Road, Sainathapuram,
Vellore-632 001.

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the first respondent to pass orders on the revision petition dated 23.07.2016.

For Petitioner : Mr.G.Justin

For 1st respondent : Mr.A.N.Thambidurai
Special Government Pleader

For 2nd respondent : Mr.Avinash
for Mr.V.Lakshminarayanan

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner would state that 'Murthuzathwalli Masthan Durga' situated at Vellore Town, opposite to CMC Hospital, Vellore is a surveyed and notified waqf under Central Waqf Act 1954 and it was declared as a public waqf in the official gazette, dated 11.02.1959. The object of the waqf is keeping light, for offering fathiah, performing annual sandal and for maintenance of the tomb of the saint. Late Janab Sheik Ahmed was the hereditary Muthawalli of the above said Durga, Waqf. After the demise of Janab Sheik Ahmed, his son Late Janab Sheik Mohideen succeeded to the post of Muthawalli and after his demise, his only son Janab Sheik Jaffar @ Babu succeeded to the post, which were approved by the second respondent herein. Subsequently, the 2nd respondent has approved for a seven member committee consisting of the family members of the Muthawalli Late Janab Sheik Ahmed, under the head of Janab Sheik Jaffar @ Babu vide its proceedings in R.C.No.7452/B4/02/VI.R dated 06.06.2003 for a period of three years. Since the above said Janab Sheik Jaffar @ Babu expired, the second respondent in its order in Item No.98/2004 dated 13.10.2004 communicated a letter in R.C.No.7452/B4/02/VI.R dated 25.11.2004, appointed Janab M.Maqbool Basha as Muthawalli. Since the period of the committee approved by the second respondent expired, steps were taken to form a new committee under the leadership of Muthawalli Janab M.Maqbool Basha and unanimously elected a new committee consisting of seven members and the same was communicated to the second respondent for approval. While so, the second respondent instead of sending approval order had sent the orders in item No.150/07/RC.No.7452/02/B4/VLR dated 08.12.2009 vide its letter in RC.No.7452/02/VLR/B4 dated 23.09.2010 taking the management of the Durgha under its direct management by appointing the Waqf Inspector, Vellore District as Execution Officer, who is the third respondent herein. Aggrieved against the same, the petitioner has filed a review dated 21.07.2016 before the second respondent. Since no orders have been passed by the respondents, the present writ petition has been filed.

3. Heard the submission of Mr.G.Justin, learned counsel appearing on behalf of the petitioner and Mr.A.N.Thambidurai, learned Special Government Pleader appearing on behalf of the first respondent and Mr.Avinash, representing counsel for Mr.V.Lakshminarayanan, appearing on behalf of the second respondent.

4.The learned counsel for the petitioner submitted that the second respondent had failed to appreciate the fact that the present Muthawalli was elected as per hereditary line of succession to the office of the Muthawalli for the waqf. Hence, the 2nd respondent cannot take over the Waqf for direct management.

5.Considering the facts and circumstances of the case, this Court directs the first and second respondents to consider the petitioner's review dated 23.07.2016, pending on the file of the second respondent and pass orders on merit and in accordance with law as expeditiously as possible.

This writ petition is disposed of accordingly. No costs.

Sd/
Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1.The Principal Secretary to Government,
BC, MBC & Minorities Welfare Development,
Secretariat, Fort St.George,
Chennai-600 009.

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Vellore-632 001.

+1cc to Mr.V.Ragavachari, Advocate SR.No.18081

+1cc to Government Pleader SR.No.18326

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SDR 19.04.2017