



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.04.2017

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR. JUSTICE P.VELMURUGAN

WA (MD) No.133 of 2015

M.Shahul Hameed,
S/o Mohammed Yusuf,
55/13, Muslim East Street,
Aruppukottai,
Virudhunagar District.

...Appellant/Petitioner

Versus

1.Tamil Nadu Wakf Board,
Represented by its Chief Executive Officer,
No.1, Jaffer Shrang Street,
S.K. Nagar, Chennai-1.

2.The Superintendent of Wakf,
Wakf office,
Velipattinam, Ramanathapuram

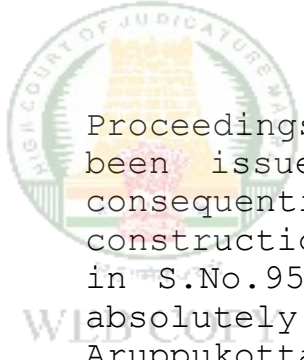
3.The Commissioner,
Aruppukottai Municipality,
Aruppukottai, Virudhunagar District.

4.Naina Mohammed,
Nallur Mohideen Andavar Pallivasal,
Aruppukottai,
Virudhunagar District

...Respondents /Respondents

Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 12.01.2015 made in W.P.(MD)No.380 of 2015.
Prayer in WP(MD). 380/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records of the 3rd Respondent dated 02.09.2014 in plannignpermission No. 162/2014/A, quash the same as teh same is in violation of Tamil Nadu District Municipalities Act, Tamil Nadu Wakf Act, in violation of the orders passed by the respondents 1, 2 dated 07.04.2014 in Proceedings Na.Ka. No. 7649/01/B3 Virudhu, 03.07.2014 in Proceedings Na.Ka. 224/Va.Ka../E.Sa./2014, 14.07.2014 in



Proceedings Na.Ka. No. 224/Va.Ka./E.Sa./2014 and as the same has been issued without the prior consent of the respondent1, 2 consequentially direct the 3rd respondent to demolish the construction made by the 4th respondent in the property comprised in S.No.95/8 Part (95/11), Railway Feeder Road Aruppukottai which absolutely belongs to Muslim Mohideen Andavar Pallivasal, Aruppukottai in consonance with the orders dated 07.04.2014, 03.07.2014 and 14.07.2014.

For Appellant : Mr.R.G. Shankar Ganesh

For Respondents : No Appearance

JUDGMENT

(Judgment of the Court was delivered by **T.S.SIVAGNANAM, J**)

Heard Mr.R.G. Shankar Ganesh, the learned counsel appearing for the appellant.

2.This Writ Appeal is directed against the order passed in W.P.(MD)No.380 of 2015 dated 12.01.2015.

3.The appellant challenged the order passed by the 3rd respondent Municipality, dated 02.09.2014, granting planning permission in the name of the 4th respondent for putting up a construction in the subject property, and for a consequential direction to demolish the construction made by the 4th respondent on the ground that the property absolutely belongs to a Pallivasal. The writ petition was dismissed on the ground that the petitioner has an effective alternative remedy under the provisions of Tamil Nadu Wakf Act.

4.The contention of the appellant is that if the appellant's case was rejected, then he could have filed an appeal. But, here, the appellant challenges the order passed by the Municipality.

5.While we are in agreement with the counsel for the appellant that an appeal could be preferred under the Tamil Nadu Wakf Act against the order passed by the authorities under the Wakf Act, but, the writ petitioner challenges the order passed by the Municipality. However, by efflux of time, it is not clear as to whether the challenge to the order passed by the respondent Municipality still survives. Therefore, while setting aside the order passed in the writ petition, we disposed of this appeal leaving it open to the writ petitioner to submit a representation before the third respondent Municipality, if still the issue survives for consideration.



6.This writ petition is disposed of accordingly. No costs.
Sd/-
Assistant Registrar (CS-I)

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Sub Assistant Registrar

To

1.The Chief Executive Officer,
No.1, Jaffer Shrang Street,Tamil Nadu Wakf Board,
S.K. Nagar, Chennai-1.

2.The Superintendent of Wakf,
Wakf office, Velipattinam, Ramanathapuram.

3.The Commissioner,
Aruppukottai Municipality,
Aruppukottai, Virudhunagar District.

+1 cc to Mr.R.G.Shankar Ganesh, Advocate in SR.No:19142

ARUL/GK

AE/SV MMS/SAR3/18.04.2017/3P/5C

Judgment in

WA (MD) No.133 of 2015
Dated:04.04.2017