

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.04.2018

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THE HONOURABLE MR. JUSTICE T.RAJA

W.P.No.8684 of 2018
and
WMP.No.10607 of 2018

M.A.Syed Ahamed Hussain Khaderi ...Petitioner

Versus

The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1 Jaffar Sarang Street,
Vallal Seethakathi Nagar, Chennai-1. ... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to dispose of the petition/representation dated 15.09.2017 submitted to the respondent and pass order as per Law regarding the payment of the amount outstanding and pending with him to which the petitioner is entitled to from 01.04.2010 to 15.04.2010, 01.04.2011 to 15.04.2011, 01.04.2012 to 15.04.2012, 01.04.2013 to 15.04.2013, 01.04.2014 to 15.04.2014, 01.04.2015 to 15.04.2015, 01.04.2016 to 15.04.2016, 01.04.2017 to 15.04.2017 in respect of the Hundial Collections in the Hazrat Sayed Moosa Sha Khaderi Dargah, situated at Anna Salai (formerly Mount Road), Chennai-2.

For Petitioner : Mr.K.V.Subramanian,
Senior Counsel
for M/s.K.V.Subramanian Associates
For Respondent : Mr.V.Lakshmi Narayanan,
Standing Counsel

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O R D E R

The Writ Petition has been filed seeking to issue a Writ of Mandamus, directing the respondent to dispose of the petition/representation dated 15.09.2017 submitted to the respondent and pass orders as per Law regarding the payment of the amount outstanding and pending with him to which the petitioner is entitled to from 01.04.2010 to 15.04.2010, 01.04.2011 to 15.04.2011, 01.04.2012 to 15.04.2012, 01.04.2013 to 15.04.2013, 01.04.2014 to 15.04.2014, 01.04.2015 to 15.04.2015, 01.04.2016 to 15.04.2016, 01.04.2017 to 15.04.2017 in respect of the Hundial Collections in the Hazrat Sayed Moosa Sha Khaderi Dargah, situated at Anna Salai (formerly Mount Road), Chennai-2.

2. Mr.V.Lakshmi Narayanan, learned Standing Counsel takes notice for the respondent.

3. Mr.T.Velumani, learned Counsel for M/s.Zahooruddin and Nizamuddin requested this Court to implead the 3rd parties as respondents in the present Writ Petition. But no such stage has come to this Court to dispose of the present Writ Petition. The reason is that the petitioner has succeeded before the Wakf Tribunal, namely, the I Assistant Judge, City Civil Court, by judgment and decree in O.S.No.2972/2010 dated 15.6.2017. The relevant portion is extracted hereunder:

'40. The plaintiffs have filed this suit declaring the legal heir of Mrs.Azeezunnisa and Mrs.Saran Bi are alone exclusively entitled to perform the entire 45 days service including the 15 days services from 1st April to 15th April every year in the Hazrat Syed Moosa Sha Khadri Dargah, famously known as the Mount Road Dargah as its turn holding Trustees, and granting permanent injunction restraining the defendants 1 and 2, their men, servants, agents from in any manner interfering with the performance of service at this Dargah with plaintiffs along with defendants 3 to 7 performing the entire 45 days service including the 15 days service from 1st April to 15th April every year in the Hazrat Syed Moosa Sha Khadri Dargah as its turn holding trustees. But the plaintiffs have not proved their case, but the defendants 1 and 2 have proved that the four daughters of Syedunnissa Banu Bi, Azeezunnisa, Saran Be and Shamshunnisa and their off-springs are turn holding trustees and the defendants 1 and 2 have been enjoying their trusteeship. The 9th defendant Wakf Board is only a supervisory body and cannot interfere in the scheme and turn holding rights of the shares in the Trust. In view of the foregoing discussions the plaintiffs are not entitled to get reliefs as prayed for and Issue Nos.1 and 2 are answered against the plaintiffs.

41. Issue No.3 :

Considering the answer derived for Issues No.1 and 2, no relief is given to the plaintiffs.

In the result, the suit is dismissed. Considering the nature of the suit, there is no cost."

Taking support from paragraph 40 of the aforesaid judgment and also relying on paragraph 6 of the order passed by this Court in C.R.P. (PD) No.1744 of 2010 and Review Application No.105 of 2011 dated 5.7.2013 further submitted that the respondent has to comply with the judgment and decree passed by the learned Wakf Tribunal (I Assistant Judge, City Civil Court, Chennai) and dispose of the petitioner's representation also.

4. Since this Court in paragraph 16 of the Order passed in W.P.No.8999 of 2011 dated 3.8.2012 has held that the Chief Executive Officer alone has the power to pass the order, this

Court has no hesitation to direct the Chief Executive Officer, to consider the pending representation of the petitioner dated 15.9.2017 and dispose of the same on the basis of the judgment and decree passed by the Wakf Tribunal, namely, the I Assistant Judge, City Civil Court, in O.S.No.2972/2010 dated 15.6.2017, within a period of four weeks from the date of receipt of a copy of this Order, after issuing notice to the other rival parties/plaintiffs in the suit.

5. With the above direction, the Writ Petition is disposed of.

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1 Jaffar Sarang Street,
Vallal Seethakathi Nagar,
Chennai-1.

+lcc to Mr.K.V.Subramanian & Associates, SR.No.27464

+lcc to Mr.V.Ragavachari, Advocate Sr.No.27046

+lcc to MR.T.Velumani, Advocate Sr.No.27474

GJ(CO)

sm:28.4.2018

W.P.No.8684/2018

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