

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.789 of 2018 and
W.M.P.No.955 of 2018

K.M.Mohideen Kunhi

.. Petitioner

Vs.

1.The Government of Tamil Nadu
rep by its Secretary
Backward and Most Backward Minority
Welfare Department,
Fort St.George, Chennai - 600 009.

2.Tamil Nadu Wakf Board,
rep by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai - 600 001.

3.Syed Maskoor Mohideen

... Respondents

Petition under Article 226 of the Constitution of India,
praying for the issue of a Writ of Mandamus, forbearing the 2nd
respondent from proceeding with the enquiry under the caption
"allegations against the committee" by Jumma Masjid, Kutchery
Road, Mylapore, Chennai - 600 004.

For Petitioner : Mr.T.Velumani

For Respondents: Mr.D.Suryanarayanan,
Additional Government Pleader (R1)
Mr.V.Lakshminarayanan, (R2)
Mr.N.A.Nissar Ahmed (R3)

O R D E R

The learned counsel for the petitioner submitted that if there is any move for removal of the petitioner from the post of Muthavalli, the conditions mentioned under Section 64 (3) of the Wakf Act, 1995 should be scrupulously followed. Section 64 (3) of the Act specifies that the conditions mentioned in Section 64 (1) should be followed without resorting to the mandatory conditions mentioned therein. The 1st respondent is going to hold enquiry only with regard to the removal of the petitioner.

2.Continuing his arguments, the learned counsel for the petitioner further submitted that when the petitioner was appointed as Muthavalli by the Committee, some of the members opposed the petitioner's continuance as Muthavalli and they

have unceremoniously removed the petitioner. This is going to be accepted by the 1st respondent, which is not permissible as per Section 64 (3) of the Act. When the petitioner approached the 1st respondent to pass an order for re-constitution of the Committee, without considering his request, the 1st respondent cannot proceed on the basis of a representation made by the 3rd respondent.

3. At this stage, the learned counsel appearing for the 3rd respondent submitted that the petitioner was appointed as Muthavalli only by the Committee and therefore, the members of the Committee alone have got powers to remove the Muthavalli, but not the Board. Therefore, the contention made by the learned counsel for the petitioner that the conditions under Section 64 (3) should be followed is bad in law.

4. Mr. V. Lakshminarayanan, learned counsel appearing for the 2nd respondent/Board submitted that two petitions have been filed, one by the petitioner and the other by the 3rd respondent. Both the petitions would be considered as per law. He further stated that the enquiry is scheduled to be held on 20.07.2018 and on the said date, both the petitions will be considered.

5. It is submitted by the learned counsel for the petitioner that the enquiry scheduled to be held on 20.07.2018 may be postponed to some other date since the petitioner is facing incarceration.

6. This Court is of the view that instead of the petitioner, the learned counsel for the petitioner can represent the petitioner's case before the Committee on 20.07.2018. All the parties are directed to appear on 20.07.2018 without fail, so that, the matter can be resolved without any further loss of time.

7. With the above direction, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS IV)

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Sub Assistant Registrar

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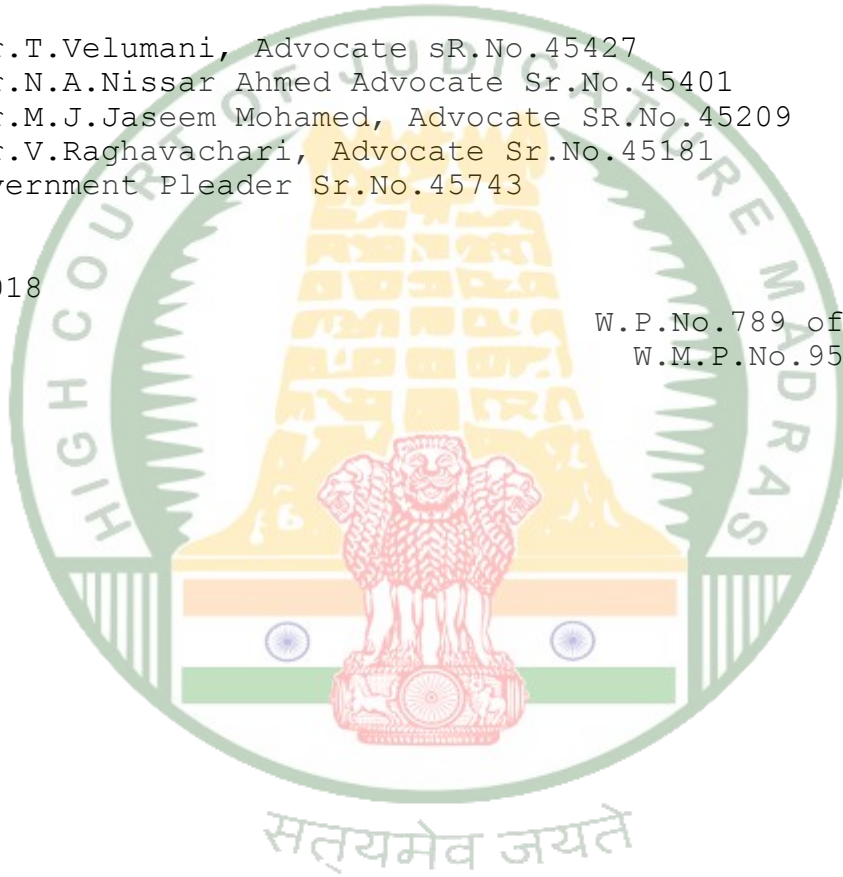
1.The Secretary, Government of Tamil Nadu,
Backward and Most Backward Minority
Welfare Department,
Fort St.George, Chennai - 600 009.

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai - 600 001.

+1cc to Mr.T.Velumani, Advocate sR.No.45427
+1cc to Mr.N.A.Nissar Ahmed Advocate Sr.No.45401
+1cc to Mr.M.J.Jaseem Mohamed, Advocate SR.No.45209
+1cc to Mr.V.Raghavachari, Advocate Sr.No.45181
+1cc to Gvernment Pleader Sr.No.45743

SR(CO)
sm:25.7.2018

W.P.No.789 of 2018 and
W.M.P.No.955 of 2018
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