

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.04.2018

Coram

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.319 of 2018
& C.M.P.No.2606 of 2018

S.Mohammed Jaffer Khan Pani ...Appellant/Thirty Party

Vs.

1. M.H.Abdul Rasheed Sahib
2. The Tamil Nadu Wakf Board,
rep. By its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 1. ...1st Respondent/Petitioner

This Writ Appeal is filed under clause 15 of the Letters Patent against the order dated 08.12.2017 made in W.P.No.31827 of 2017 on the file of this Court.

W.P.No.31827 of 2017:-

and Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus to direct the respondent to appoint muthavali to the Khanmiyan Pallivasal, and Lakshmipuram Dargha, Kandiaperi.

For Appellant : Mr.N.A.Nissar Ahmed

For Respondent : Mr.G.Rangan, R. Ramesh - R1
Mr.Mohammed Fayaz Ali - R2

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JUDGMENT

(Judgment of the Court was delivered by R.SUBRAMANIAN,J.)

This intra Court appeal is filed at the instance of the third party to the Writ Petition, in which the prayer for mandamus to direct the respondent to appoint a Muthavalli to the Khanmiyan Pallivasal and Lakshmipuram Dargha, Kandiaperi village was sought for.

2. The petitioner in the Writ Petition sought for the said mandamus claiming that he is the hereditary Muthavali of the said Wakf and complaining inaction on the part of the Wakf Board in the matter of appointment of Muthavalli.

3. The learned counsel for the Wakf Board appears to have made a submission before the Writ Court to the effect that the appointment of Muthavalli to the Wakf concerned is by way of an election and the same is to be conducted in the month of January, 2018. Recording the said statement of the learned counsel for the Wakf Board as well as the statement of the learned counsel for the petitioner that he would make appropriate application at the relevant point of time, this Court disposed of the Writ Petition.

4. The appellant in the Writ Appeal would contend that the petitioner in the Writ Petition has no right of hereditary Muthavalli and his claim to such an office was rejected by the Wakf Board even as early as on 16.10.2010. According to Mr.Nissar Ahamed, learned counsel appearing for the appellant, the order in the Writ Petition is likely to be understood as conferring some right on the petitioner.

5. Learned counsel appearing for the Wakf Board would submit that the statement of the learned counsel for the Wakf Board before the Writ Court to the effect that the appointment of Muthavalli is to be done by way of election is wrong and it is only by way of selection.

6. Taking into account the submissions made, we make it clear that the statement of the counsel for the Wakf Board recorded in paragraph 2 of the order dated 08.12.2017 in W.P.No.31827 of 2017 stands deleted and it is for the Wakf Board to appoint a Muthavalli in accordance with the customary practice of the Wakf. We also make it clear that the order in the Writ Petition will not confer any right on the petitioner, namely, the first respondent herein.

7. With the above observation, the Writ Appeal is dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

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

+1cc to Mr.N.A.Nissar Ahmed, Advocate, S.R.No.32100

+1cc to Mr.G.Rangan, Advocate, S.R.No.31558

W.A.No.319 of 2018
& C.M.P.No.2606 of 2018

NRJK(CO)
CS/22/06/18



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