

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2018

CORAM

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.A.No.592 of 2018 and
C.M.P.No.5761 of 2018

1.Shanmugam
2.R.Ravi

... Appellants

-vs-

1.Z.Anver Basha

2.The Tamil Nadu Wakf Board
rep.by its Chief Executive Officer,
No.1, Jaffer Sarang Street,
Vallal Seethakadhi Nagar, Mannady,
Chennai-600 001.

3.The Wakf Superintendent,
Jumma Pallivasal Wakf,
Jumma Pallivasal,
Kallakurichi-606 202
Villupuram District.

4.Sivagami

5.Duraiswamy Mudaliyar

... Respondents

Appeal filed under Clause 15 of the Letters Patent, against the order passed by this Court in W.P.No.25329 of 2012 dated 12.01.2018.

Writ Prayer: Petition filed under Article 226 of the constitution of India praying for issuance of a Writ of mandamus directing the 1st respondent to take action against the respondents 3 to 6 under section 52 of the Wakf Act 1995 to recover the Wakf property namely Shop Nos.4,10,11,10A in S.No.291/1 Salem Main Road, Kallakurichi.

For Appellants :: Mr.K.Fazur Rahman

For Respondents:: Mr.V.Raghavachari for R2 and R3
Mr.C.T.Mohan for R5 and R6

JUDGMENT
(Made by HULUVADI G.RAMESH, J.)

The first respondent filed a writ petition in W.P.No.25329 of 2012 praying for a direction to the Tamil Nadu Wakf Board to take action against the respondents 4 and 5 herein and the appellants herein, under Section 52 of the Wakf Act, 1995 to recover the Wakf Properties, viz. Shop Nos.4, 10, 11, 10A in S.No.291/1, Salem Main Road, Kallakurichi. This Court passed an order on 12.01.2018 directing the Tamil Nadu Wakf Board to conduct an enquiry into the grievance of the first respondent herein under Section 52 of the Wakf Act, 1995 and to pass suitable orders on merits and in accordance with law, within a period of four weeks.

2.Challenging the order passed in the writ petition, the present appeal has been filed by the appellants, who are the fifth and sixth respondents in the writ petition, contending that the learned single Judge has passed the impugned order, ordering enquiry by the second and third respondents at the instance of the first respondent, which is against the principles of natural justice.

3.Heard the learned counsel on either side and perused the materials available on record.

4.Considering the facts and circumstances of the case, this Court is of the view that the matter has to be resolved by the Tamil Nadu Wakf Board by holding enquiry as per Section 52 of the Wakf Act, 1995. Thus, while upholding the impugned order passed by the learned single Judge, the second respondent herein is directed to conduct enquiry into the grievance expressed by the first respondent as per Section 52 of the Wakf Act, 1995, after issuing notice to both the parties, and pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this judgment.

5.The writ appeal is disposed of accordingly. No costs. Consequently the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS VIII)

//True copy//

Sub Assistant Registrar

KM

To

1.The Chief Executive Officer,
Tamil Nadu Wakf Board
No.1, Jaffer Sarang Street,
Vallal Seethakadhi Nagar, Mannady,
Chennai-600 001.

2.The Wakf Superintendent,
Jumma Pallivasal Wakf,
Jumma Pallivasal,
Kallakurichi-606 202
Villupuram District.

+1cc to Mr.R.Venugopal, Advocate SR.No.31491

W.A.No.592 of 2018
and
C.M.P.No.5761 of 2018

NA (CO)
GN(18/05/2018)



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