



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.08.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P.(MD) No.17711 of 2018

Mohamed Sharbudeen

... Petitioner

vs.

1. The Chief Executive Officer,
The Tamil Nadu Wakf Board,
No.1, Jaffar Serang Street,
Vallal Seethakathi Nagar,
Chennai-600 001
2. The Superintendent,
The Tamil Nadu Wakf Board,
No.12, Kilothar Street, Trichy.
3. The Inspector,
The Tamil Nadu Wakf Board,
Trichy.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of mandamus directing the respondents to give charges to winning candidates as per election result dated 08.10.2017 in Illangakurichi Jumma Mosque, Illangakurichi Village, Manapparai Taluk, Trichy District.

For Petitioner : Mr.J.M.Hassanul Bazari

For Respondents: Mr.K.K.Senthil, Standing Counsel

O R D E R

The petitioner appears to be one of the newly elected members of Illangakurichi Muslim Jamath, which is functioning under the control of the respondent - Wakf Board. According to the petitioner, the earlier elected members' tenure had come to an end and new office bearers were elected in the election conducted on 08.10.2017. In spite of the election of new office bearers, the charge has not been handed over to them by the erstwhile office bearers of the Jamath. Therefore, the petitioner is before this Court seeking for a direction as stated supra.



2. Mr.K.K.Senthil, learned standing counsel, takes notice for the respondents and he would submit that there is an effective alternate remedy available under the Wakf Act, 1995 in terms of Sub-Section (2) of Section 68, which reads as follows:

"(2) Where any removed mutawalli or committee fails to deliver charge or deliver possession of the records, accounts and properties (including cash) to the successor mutawalli or committee within the time specified in sub-section (1), or prevents or obstructs such mutawalli or committee, from obtaining possession thereof after the expiry of the period aforesaid, the successor mutawalli or any member of the successor committee may make an application, accompanied by a certified copy of the order appointing such successor mutawalli or committee, to any District Magistrate, Additional District Magistrate, Sub-Divisional Magistrate or their equivalent within the local limits of whose jurisdiction any part of the waqf property is situated and, thereupon, such District Magistrate, Additional District Magistrate, Sub-Divisional Magistrate or their equivalent may, after giving notice to the removed mutawalli or members of the removed committee, make an order directing the delivery of charge and possession of such records, accounts and properties (including case) of the waqf to the successor mutawalli or the committee, as the case may be, within such time as may be specified in the order."

3. In case the earlier office bearers fail to deliver charge or deliver possession of the records etc., it is open to the newly elected office bearers to approach the District Magistrate, Additional District Magistrate, Sub-Division Magistrate, as the case may be, as provided in the above said Section. Instead of invoking the said provision, the petitioner has invoked the extraordinary jurisdiction of this Court conferred under Article 226 of the Constitution of India.

4. This Court has considered the submissions made by the learned counsels on either side and is in agreement with the submissions made by the learned standing counsel for the respondents. When an effective alternate remedy is provided under the statute, the same has to be resorted to before approaching this Court by invoking the extraordinary jurisdiction. It appears from the aforesaid provision, as relied upon by the learned counsel for the respondents, the alternate remedy provided thereunder is very effective and therefore, the petitioner cannot



be allowed to bypass such remedy and seek the intervention of this Court.

5. For the aforesaid reasons, this Court is of the view that the writ petition is not maintainable and therefore, the same is dismissed.

6. It is open to the petitioner to approach the appropriate Forum by invoking the above said provision in respect of his grievances as projected in this writ petition. No costs.

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. The Chief Executive Officer,
The Tamil Nadu Wakf Board,
No.1, Jaffar Serang Street,
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Chennai-600 001
2. The Superintendent,
The Tamil Nadu Wakf Board,
No.12, Kilothar Street, Trichy.
3. The Inspector,
The Tamil Nadu Wakf Board,
Trichy.

+ 1 CC TO Mr.J.M.HASSANUL BAZARI, ADVOCATE IN SR No. 77955

KRK

TE/RP/SAR-2 : 27/08/2018 : 3P/5C

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