



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2018

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.17209 of 2018

and

W.M.P (MD) .Nos.15178 and 15179 of 2018

Jaylaniya Masjid Wakf
Sunnathuval Jamath
(G.S.No.616/TRY)
Jaylaniya Masjid Street,
Subramaniyapuram,
Tiruchirappalli 620 020.
rep by its Secretary

: Petitioner

Vs.

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

2.The Superintendent of Wakf/
Election Officer,
No.12, Kilodar Street,
Trichy 620 002.

: Respondents

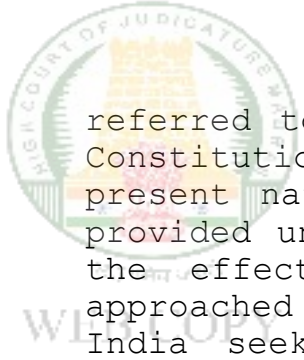
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the second respondent in Na.Ka.Wakf G.S.No.616/Trichy/Va.Ka/2018 dated 28.07.2018, quash the same and consequently, forbearing the respondents herein or any one on their behalf from conducting any election to the petitioner for the current period of present office bearers in administration of the petitioner Wakf till 27.07.2020.

For Petitioner : Mr.V.Janakiramulu
For Respondents : Mr.K.K.Senthil

ORDER

The petitioner herein has approached this Court against the proceedings notifying the election to be conducted in the petitioner's Wakf. According to the learned counsel for the petitioner, no proper procedure has been followed, while notifying the election.

2.This Court has ordered notice to the respondents and today, when the matter is listed for hearing, Mr.K.K.Senthil, learned Standing Counsel appearing for the first respondent would submit that the petitioner, in case aggrieved by any action, can approach the Tribunal under Section 83 of the Wakf Act, 1995 [hereinafte



referred to as " the Act"]. Section 83 of the Act provides that Constitution of Tribunals in order to resolve the disputes of the present nature, it is an effective alternative judicial mechanism provided under the Act. When such is the case, without exhausting the effective remedy provided in the statute, the petitioner approached this Court by invoking Article 226 of the Constitution of India seeking issuance of Writ of Certiorarified Mandamus. The learned standing counsel for the respondents would further rely on the decision of the Hon'ble Supreme Court of India reported in (2010) 14 SCC 588 [Board of Wakf, West Bengal and another Vs. Anis Fatma Begum and another]. In the said decision, the Hon'ble Supreme Court of India stated that anyone having dispute relating to a Wakf and the same should be raised before the Wakf Tribunal and should not be entertained by the Civil Courts or by the High Court. Therefore, the learned counsel for the respondents would submit that the present writ petition is not maintainable.

3.This Court has considered the rival submissions of the learned counsel on either side and would agree with the submission made on behalf of the learned counsel representing the respondents.

4.Once an effective and alternative remedy is provided under the statute, the same has to be invoked before the appropriate forum. Without exhausting the such effective remedy provided under Section 83 of the Wakf Act, the petitioner approached this Court directly, by invoking the jurisdiction of this Court under Article 226 of the Constitution of India. Hence, this Court finds the present Writ Petition is not maintainable and the same is dismissed. It is always open to the petitioner to approach the appropriate forum in a manner known to law, if he is so advised. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar(AE)

/True Copy/

Sub Assistant Registrar(CS-II)

+1CC to Mr.V.Janakiramulu, Advocate, SR.No. 77913

+1CC to Mr.K.K.Senthil, Advocate, SR.No. 77752

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RMK

ES/SKN/SAR 2/27.08.2018/2P/3C