



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 13.12.2018
CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.A(MD)No.1661 of 2018
and
C.M.P.(MD)No. 12181 of 2018

Janab A.Kaja Mohideen,
President,
Kollampattarai Sungam Pallilvasal,
Madurai Town,
No.6,Sungam Pallilvasal,Madurai. ... Appellant/3rd Party

Vs.

1.A.Jahir Hussain ...Respondent No.1/Petitioner

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

3.The Superintendent,
Tamil Nadu Wakf Board,
Town Hall Road,
Madurai - 625 001. ... Respondents 2 &3/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent against the order of this Court in W.P.(MD)No.22696 of 2018, dated 26.11.2018.

Prayer in WP(MD). 22696/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to consider the petitioner's representation dated 10.09.2018 and to conduct the election for the Kollampattarai Sungam pallivasal, Madurai Town.

For appellant	:Mr.Veerakathiravan Senior Counsel for M/s.Veera Associates
For R1	:Mr.Babu Rajendran
For R2 and R3	:Mr.S.A.S.Alaudeen

**JUDGMENT**

(Judgment of the Court was delivered by S.S.SUNDAR, J.)

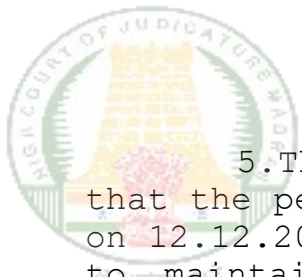
The Writ Appeal is directed against the final order passed by the learned Single Judge of this Court in the writ petition in W.P. (MD)No.22696 of 2018, dated 26.11.2018.

2.The first respondent in this appeal filed the above writ petition in W.P.(MD)No.22696 of 2018, for issuance of a writ of mandamus, directing the respondents to consider the petitioner's representation dated 10.09.2018 and to conduct the election for the Kollampattarai Sungam Pallivasal, Madurai Town. It is to be noted that the appellant, who is the President / Muthavalli of Kollampattarai Sungam Pallivasal, Madurai Town, has not been made as a party in the writ petition. However, considering the stand taken by the Wakf Board, the learned Single Judge of this Court has made some observation about the conduct of the elected members of the Wakf and finally passed the following interim order:

"7.In the circumstances stated supra, the respondents are directed to immediately call the complainants and others for enquiry and pass appropriate orders on or before 14.12.2018. List the matter on 17.12.2018. On 13.12.2018, the present Committee members are directed to hand over the keys, accounts and all other documents maintained by the Committee to the Board, till fresh elections are being conducted."

3.The learned Senior Counsel for the appellant submitted that the direction issued by the learned Single Judge to hand over keys, accounts and all other documents maintained by the Committee to the Board, till fresh elections are being conducted, is not even the prayer of the first respondent herein, in the writ petition. It is further stated that the learned Single Judge has passed the order, after recording some of the factual allegations and averments submitted by the Wakf Board and the first respondent herein against the conduct of the present Office Bearers of Wakf.

4.The learned Senior Counsel for the appellant further submitted that the learned Single Judge proceeded to consider those statements made by the respondents herein and has prompted to give a direction to hand over the keys, accounts and all other documents maintained by the Committee to the Board. The learned Senior Counsel further submitted that the appellant dispute all the allegations levelled against the present Officer Bearers, who are administering the Wakf pursuant to the election, that was conducted in 2015. Since final order has been passed by the learned Single Judge without hearing the appellant, who is necessary and interested person, the whole order is vitiated and this Court is unable to sustain the same, having regard to the stand taken by the appellant in this appeal.



5. The learned Counsel for the Wakf Board, however, submitted that the period of office for the Office Bearers of the Wakf expired on 12.12.2018, and that therefore, the appellant has no locus standi to maintain the present appeal. The said submission cannot be countenanced for the simple reason that the Muthavalli or the elected members of the Wakf, who are in Office are entitled to continue in Office till the new Office Bearers are elected and assume office.

6. Since the direction was on the basis of certain adverse comments and allegations against the present management, this Court is of the view that the appellant is entitled to be heard before any order is passed in the writ petition. In that view of the matter, the writ appeal is allowed. The order passed by this Court in W.P. (MD) No. 22696 of 2018, dated 16.11.2018 is set aside and the matter is remitted to the learned Single Judge of this Court to hear the writ petition afresh after impleading the appellant as a party. For this purpose, the appellant is directed to file an impleading petition on or before 17.12.2018 and on such petition being filed, he shall be impleaded and the matter shall be considered and disposed of after hearing all the parties concerned in accordance with law and on merits, preferably on or before 25.01.2019. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RECORDS)

/True Copy/

Sub Assistant Registrar (CS-III)

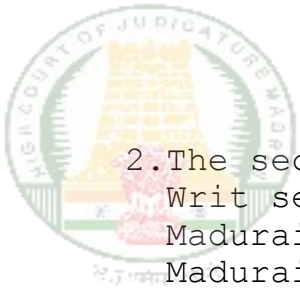
To

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

2. The Superintendent,
Tamil Nadu Wakf Board,
Town Hall Road,
Madurai - 625 001.

Copy To:

1. The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai.



2.The section Officer,
Writ section,
Madurai Bench of Madras High Court,
Madurai.

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- + 1 CC TO Mr.BABU RAJENDRAN , ADVOCATE IN SR No.100256.
- + 1 CC TO M/s.VEERA ASSOCIATES , IN SR No.100270.

CMR

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