



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 26.07.2018
CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
C.R.P. (NPD) (MD) No.912 of 2013

WEB COPY

1. Tamil Nadu Wakf Board,
represented by its Chief Executive Officer,
7/4, 9th Cross street,
Indira Nagar, Chennai-20.
Now having office at No.1,
Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai-600 001.
 2. The Superintendent of Wakf,
Tirunelveli, No.54,S.N.High Road,
Tirunelveli.
- ...Petitioners

Vs

1. The Administrator/ Mutawalli,
Muslim Elementary and High School,
Madarasa Sharaful Islam,
No.114, Madarasa Street,
Vadakarai, Senkottai Taluk,
Tirunelveli District.
2. Sheik Abdullah,
Mutawalli, Mohideen Andavar Jumma Pallivasal,
Vadakarai Village,
Senkottai Taluk,
Tirunelveli District.
3. A.Pudur Mohaideen,

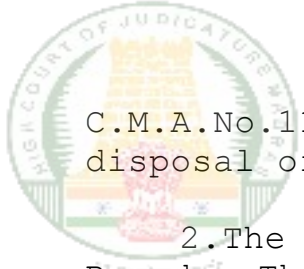
(R3 is impleaded vide order dated 04.02.2015,
made in M.P.No.1 of 2014 in C.R.P.No.912 of 2013) ...Respondents

PRAYER: This petition is filed under Article 227 of the Constitution of India, to revise the order of the Principal Sub Court (Wakf Tribunal) Tirunelveli, made in C.M.A.No.11 of 2007 dated 08.01.2010, by allowing the above Civil Revision Petition.

For Petitioner	: Mr.K.K.Senthil
For R1	: Mr.D.Nallathambi
For R2 and R3	: Mr.R.Manimaran

O R D E R

THIS Civil Revision Petition is directed against the order passed by the Wakf Tribunal / Principal Sub Court, Tirunelveli in



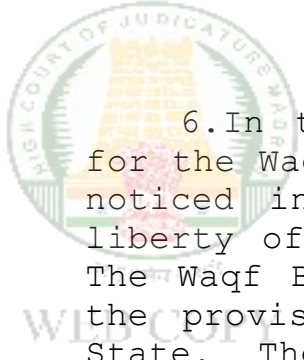
C.M.A.No.11 of 2007. The brief facts that are necessary for the disposal of the Civil Revision Petition are as follows.

2.The first petitioner in the Revision Petition is the Wakf Board. The dispute is in relation to the wakf, known as "SHARAGUL ISLAM MADARASA". Even as per the proforma report, the wakf was registered as one, in which the Rule of succession to the office of Muthavalli is stated as elected by Jamath according to the custom. Since, the wakf is administered by the members as per custom, it is recognized as a wakf which is administered by person who is elected by following a method over a period of time. The first petitioner, the Wakf Board passed an order, directing the Wakf to convene the General Body of the wakf after 15 days prior intimation to Jamathars as well as to the Zonal staff.

3.This order was challenged by the first respondent in this Civil Revision Petition, before the Waqf Tribunal in C.M.A.No.11 of 2007. The Wakf Tribunal after considering, the proforma report and the evidence adduced, found that the office of Muthawalli is hereditary and that the right to administer the wakf cannot be denied to the first respondent. From the order passed by the Waqf Tribunal, it is seen that, the Wakf namely "SHARAGUL ISLAM MADARASA" was established in the year 1911 and that the administration of the Wakf was in the hands of the first respondent and his family members for more than 50 years continuously. The respondent in the Civil Revision Petition is found to be in the administration of the Wakf, without any interference from the Wakf Board as a descendent of founders, from 1956. The Waqf Tribunal, therefore set aside the order passed by the Waqf Board dated 25.07.2005.

4.Having regard to the findings of the Waqf Tribunal, and the facts which are not in dispute, this Court has no reason to interfere with the order passed by the Waqf Tribunal. It is true that the supervisory control is always vest with the Waqf Board, in terms of the power that is conferred under Section 63 of the Waqf Act, 1995. However, the hereditary right of individual or person belonging to a particular family is well recognized

5.When the Wakf is under the administration of persons claiming hereditary right and it is established that the administration of the Wakf is done by the descendents of the founders, for more than 50 years, the Wakf Board, cannot change the line of succession or presume that the Wakf has been administered by persons elected by Jamath. The line of succession to the office of Muthawalli cannot be changed. In this case, there is no rival claim and the members of the Jamath have not challenged the administration of the Wakf by the respondent



6. In the course of arguments, the learned counsel appearing for the Waqf Board submitted that several irregularities have been noticed in the administration, by the Waqf Board. Therefore, liberty of Waqf Board is reserved for taking appropriate action. The Waqf Board is always at liberty to exercise its power under the provisions of the Act as custodian of Wakf throughout the State. The Waqf Board can take action in case of any irregularity in the administration of the Waqf.

7. It is stated that the property of the Waqf has been dealt with by the Muthawalli as the property of his own by gifting the same to his daughter. This order does not stand in the way of Waqf Board from taking any action against the Muthawalli, exercising power under the Wakf Act.

8. This Court is able to see that the Waqf Tribunal has passed the order, after considering the relevant facts, evidence and circumstances specifically taking note of the provisions of the Wakf Act and the settled principles. Therefore, this Civil Revision Petition is dismissed and the order passed by the Waqf Tribunal in C.M.A.No.11 of 2007 dated 08.01.2010 is confirmed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-II)

To

1. The Principal Sub Court (Wakf Tribunal) ,
Tirunelveli.
2. The Record Keeper, (2 copies)
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.D.Nallathambi, Advocate Sr.No.75267
+1cc to Mr.K.K.Senthil, Advocate Sr.No.75442

PNN

VB/RP/SAR2/10.09.2018/3P/6C

ORDER MADE IN
C.R.P. (NPD) (MD) No.912 of 2013
26.07.2018