

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.09.2019

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. 35540 of 2005

and

W.P.M.P.s 38359/2005 & 18384/2006

1. G.Shahul Hameed
2. G.Jaffar Ali
3. M.Abdul Subhan
4. M.Abu Bakkar Siddiq
5. M.P.Abu Bakkar
6. M.Shahul Hameed
7. A.Abdul Razak ... Petitioners

Versus

1. The Tamil Nadu Wakf Board,
rep. by its Chief Executive Officer,
9th Street, Indira Nagar,
Chennai.
2. Janab Ambalam Siddique,
3. Janab M.Mohammed Sikkandar,
4. Mohammed Rasool Khan
5. V.K.M.Abdul Azeez
6. Mohideen Bava
7. A.Ziyauddin
8. L.A.Abdul Razack ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records on the file of the 1st respondent in its proceedings dated RC.7649/B2/01/VNR and dated 20.04.2005 and quash the same as illegal, incompetent and unjust.

For Petitioners : Mr.T.N.Rajagopalan for
Mr.M.V.Venkataseshan

For Respondents : Mr.S.Haja Mohideen Gisthi for R1
Mr.Jenasanan for R2 to R8

ORDER

This Writ Petition has been filed challenging the order passed by the 1st respondent Wakf Board granting post sanction approval regarding the alienation of the property made by the respondents 2 to 8.

2. The grievance of the petitioner is that the property belongs to one Nallur Mohideen Andavar Jummah Pallivasal. Earlier, Board members have sold the property in Survey No.7/5, Periyapulliyampatti Village, Arupukottai Sub-division, Virudhunagar District without getting prior approval from the Wakf Board. Earlier, the Wakf Board has cancelled the sale made by an order dated 22.07.2002 on the ground that the property has been alienated without getting prior approval from the Board and that order becomes final. Subsequently, the 1st respondent has reviewed its own order, thereby granting post sanction approval for the alienation made by the respondents 2 to 8. Aggrieved over the same, the petitioners have filed the present Writ Petition.

3. Mr.T.N.Rajagopalan, learned counsel appearing for the petitioners submitted that the order has been passed without jurisdiction, and without issuing any notice, which is violation of principles of natural justice. That apart, the 1st respondent Wakf Board did not have any power to review its own order. The learned counsel further submitted that the earlier order passed by the 1st respondent Wakf Board cancelling the alienation solely on the ground that the alienation has been made without getting prior approval under Sec.51 of the Wakf Act. Thereafter, the respondents 2 to 4 have filed an appeal seeking for post sanction approval and when the application was not considered, they have approached this Court by way of Writ Petition in W.P.No. 36882 of 2004 and this Court directed the Wakf Board to consider their representation and pass suitable orders on merits. Based on the order passed by this Court, the petitioners representations were considered and granted the post sanction approval for the alienation made by the respondents 2 to 8.

4. Mr.Jenasenan, learned counsel appearing for the respondents 2 to 8 has fairly submitted that, since the order has been passed without issuing any notice to the Petitioners, the same may be set aside and a direction may be given to the 1st respondent to pass fresh order after giving notice and after hearing the petitioners. For which, the learned counsel appearing for the petitioners has no objection for the same.

5. I have considered the rival submissions made by both the learned counsel appearing for the petitioners as well as the learned counsel appearing for the respondents and perused the records carefully.

6. Considering the fact that since the impugned order has been passed without issuing any notice to the petitioners, in violation of principles of natural justice, the order passed by the 1st Respondent Wakf Board in RC No.7649/B2/01/VNR, dated 20.04.2005 is set aside and the 1st respondent Wakf Board is directed to consider the representations submitted by the respondents 2 to 8 afresh and pass suitable orders on merits after giving opportunity of hearing to the petitioners, respondents 2 to 8 and also purchasers of the property.

7. With the above direction, the present Writ Petition stands disposed of. No costs. Consequently, the connected Writ Petition Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Chief Executive Officer,
Tamil Nadu Wakf Board,
9th Street, Indira Nagar,
Chennai.

+1 cc to Mr.M.V.Venkataseshan, Advocate Sr.No. 79567

+1 cc to Mr.A.Jenasenan, Advocate SR.No.79959

AKM/31.10.19/3P-4C /

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