



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2019

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.39213 of 2005

A.Arif Jan

...Petitioner

Vs.

1. The Secretary to Government,
Backward Classes, Most Backward Classes
And Minorities Welfare Department,
Fort St. George,
Chennai - 9.

2. The Chief Executive Officer,
Tamil Nadu WAKF Board,
Chennai - 600 004.

3. The District Magistrate,
Thanjavur.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the third respondent to take action on the petitioner's complaint dated 06.07.2005 and 20.08.2005 within a reasonable time.

For Petitioner : Mr.M.Gnanasekar

For Respondents: Mr.A.N.Thambidurai
Special Government Pleader for R1 & R3
: Mr.A.S.Kaizer for R2

ORDER

The petitioner has come forward with this Writ Petition for issuance of a Writ of Mandamus, to direct the third respondent to take action on the petitioner's complaints dated 06.07.2005 and 20.08.2005 within a reasonable time.



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2. Heard Mr.M.Gnanasekar, learned counsel appearing for the petitioner and Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 & 3 and Mr.A.S.Kaizer, learned counsel appearing for the second respondent.

3. According to the petitioner, her father Bojan was Muthavalli of Hazrath Peer Kunjali Peeran Thaikkal, M.Chavady, Thanjavur. Consequent upon her father's death on 11.09.1997, her brother Mr.B.Jaffar Hussain succeeded as Muthavalli. It is alleged that her brother developed Psychiatric illness from 1989 and he was taking treatment at the Government Hospital in Thanjavur. Due to his illness, he was cheated by one K.Parasuraman by obtaining signatures in blank papers, bond papers duly stamped from her brother in respect of the said title property. It is further alleged that the alienation of Wakf property is against Section 51 of Wakf Act, 1995.

4. It seems that the petitioner sent a representation dated 06.07.2005 to the third respondent/District Collector, Thanjavur requesting him to conduct enquiry and give a report for the complaint lodged against the said Parasuraman. The reminder was sent on 20.08.2005. But no action was taken. Therefore, this Writ Petition is filed.

5. In the counter affidavit filed by the second respondent it has been stated that Section 52 of the Wakf Act contemplates that action can be taken by the District Collector, only on the formal complaint from the Wakf Board. The writ petitioner lodged a complaint against Muthavalli B.Jaffer Hussain before the Wakf Board and she was directed to appear before the Wakf Board for enquiry along with documentary evidence. But she failed to appear for enquiry, instead she has filed this Writ Petition.

6. Though the learned counsel for the petitioner contended that under Section 51 of the Wakf Act alienation of Wakf property without sanctioning of Wakf Board is void under Section 52 of the Act, no evidence has been produced to substantiate the alienation was made against the above provision. As rightly pointed out by the learned counsel for the second respondent that only on the complaint of the Wakf Board, the third respondent is required to take action.

K.KALYANASUNDARAM, J.

dh

The petitioner has not shown any obligation of the



respondent to take action on the complaint of the petitioner.

7. In the light of the above facts, this Writ Petition fails and the same is dismissed. No costs.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

dh
To

1. The Secretary to Government,
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Chennai - 9.

2.The Chief Executive Officer,
Tamil Nadu WAKF Board,
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3.The District Magistrate,
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+1cc to Mr.M.Gnanasekar , Advocate SR.No. 50678
+1 cc to Government Pleader Sr.No. 50594

WP.No.39213 of 2005

A.SK(14/08/2019)