

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

Cont.P.No.3107 of 2016
and Sub.A.(OS).Nos.696 of 2016 and 658 of 2018
in
W.P.No.33181 of 2016

Haja Noordeen Sahib @
Alhaj Dr.S.Syed Kamil Sahib
...Petitioner in Contempt Petition/
Petitioner in Sub Application

Vs

Haji.Kazi S.A.Shaik Hasan Sahib,
Ex-Managing Trustee,
Nagore Dargah,
Nagore - 611 002.
...Respondent in Contempt Petition/
Respondent in Sub Applications

Petition filed under Section 11 of Contempt of Courts Act praying to punish the respondent/contemnor for the contempt of Court for disobeying the order of the Hon'ble Court dated 22.11.2016 in W.P.No.33181 of 2016.

Sub Appl.No.696/2016

To pass an order of interim stay staying all proceedings subsequent to meeting No.12/2016 dated 01.12.2016 selecting the Managing Trustee, Nagore Dargah, Nagore.

Sub Appl.No.658/2016

To direct the respondent in future not to hold any office either as a board of trustee or managing trustee in the administration in the Nagore Dargha at Nagore in Contempt Petition No.3107 of 2016.

For Petitioner : Mr.S.Haja Mohideen Gisthi

For Respondent : Mr.Srinath Sridevan

ORDER

Heard Mr.Haja Mohideen Gisthi, learned Counsel appearing for the Petitioner, Mr.Srinath Sridevan, learned Counsel appearing for the Respondent and Mr.S.A.Sheik Mohamed, learned counsel appearing for the Advisory Board/second respondent in the writ petition.

2.Pursuant to the order passed by this Court on 27.06.2019, the matter was placed before the Hon'ble Mediators and the Hon'ble Mediators have taken strenuous efforts in bringing out an amicable solution between all the parties. The report of the Hon'ble Mediators vividly shows the effort taken by the Hon'ble Mediators. Therefore, this Court records its sincere appreciation to the Hon'ble Mediators for having spared their valuable time and undertaken the exercise. The next set of people who

have to be congratulated and thanked are the parties to the litigation. All of them have uniformly agreed to the suggestions and ultimately settlement has been arrived at and the terms of settlement have been reduced into writing dated 29.10.2019.

3.Mr.Haja Mohideen Gisthi, learned counsel for the petitioner submitted that though his client Alhaj Haja Noordeen Sahib @ Dr.Syed Kaameel Sahib, S/o.Syedkalifa Sahib had been granted the first term, but his period of office has been restricted to one year alone and requested the Court that the period may be kept at two years.

4.One of the parties who attended the mediation settlement, namely, Janab. Mohalli H.HajaNajmudeen Sahib, S/o.Mohalli S.M.Hassan Mohideen Sahib was present in Court and the Court asked him as to why the period of office has been restricted to one year for Alhaj Haja Noordeen Sahib @ Dr.Syed Kaameel Sahib. It was represented by Janab. Mohalli H.HajaNajmudeen Sahib that as per the discussion, the first term was to be allotted to Haji. S.Sulthan Kalifa Sahib, S/o.Haji S.V.Shahul Hameed Sahib, but however, since Alhaj Haja Noordeen Sahib @ Dr.Syed Kaameel Sahib represented that he is the senior most person in age among the four of them, he may be given the first term. Therefore, the first term was allotted to him and the period was restricted to one year, so that, both the issues

stood balanced. Therefore, there is a reason behind restricting the term of office to one year for Alhaj Haja Noordeen Sahib @ Dr.Syed Kaameel Sahib which the parties have graciously accept.

5.Further, in Clause 13 of the Agreement, the parties have agreed to withdraw all pending proceedings initiated before this Court and the Courts below and all other forums. The learned counsels appearing for the parties have unequivocally stated that their clients will abide by the same and all proceedings before all the forums will be withdrawn. It is needless to state that if the civil proceedings are over, the Adhoc Board appointed by the Hon'ble Division Bench shall stand automatically dissolved. This observation/direction is made because the Hon'ble Division Bench while disposing of the writ appeals in W.A.Nos.1640 of 2016 and etc. batch dated 08.06.2018 had directed the Sub Court, Nagapattinam to dispose of O.S.No.31 of 2014 within a period of six months and the Adhoc Board of Administrators were permitted to continue till then and work with the Wakf Board. Therefore, as agreed by the parties, as soon as the suit in O.S.No.31 of 2014 is withdrawn, the Adhoc Board of Administrators constituted to work till the disposal of the suit would stand automatically dissolved. Since the Advisory Board was already in existence and upon withdrawal of the suit,

the Advisory Board shall stand restored as on 10.02.2017 and the said Advisory Board has to complete their full term of office, i.e. the balance period of 1 year 11 months. Further, as and when the parties to the civil proceedings file a memo before the trial court for expediting the trial and withdrawing the suit, the same shall be entertained by the trial court for early conclusion of the proceedings. After the 8th Trustee included in the Board of Trustees, the election of Managing Trustee has to be conducted as per the Scheme degree. The memorandum of terms of settlement arrived at among the parties to the Mediation on 29.10.2019 shall form part of this order. Further, in the light of the above developments, the apology tendered by the contemnor is accepted and he is discharged.

6.In the light of the above settlement, the contempt petition stands closed. No costs. Consequently, connected sub applications are closed.

7.Before parting, this Court would place on record its appreciation to all the learned counsels who appeared for the parties in this contempt petition as well as the other connected matters which are not listed before this Court, yet on request made by this Court, they have willingly appeared before this Court. The Court also records its appreciation to the respective parties who have understood the seriousness of the problem and that the litigation

should not be passed on to the next generation and heeded to the learned advise given by the Hon'ble Mediators and arrived at the settlement which is in the best interest of all concerned.

8.Further, the famous Sandhanakoodu festival which attracts people from all over the world is to be celebrated on 26.01.2020. Every year, one of the parties approaches the Court for certain directions such as police protection, convening a Peace Committee Meeting, etc. In the light of the settlement arrived at between the parties which this Court has recorded, this Court sincerely wishes that the forthcoming festival shall be conducted in a very grand manner by all the trustees joining together and contributing their might.

SD/-

ASSISTANT REGISTRAR (COMM.CASES)

cse

//Certified to be true copy//

Dated at Madras this the day of 2019.

COURT OFFICER (O.S.)

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Smi/11.12.2019