

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.09.2019

CORAM:

THE HON'BLE MR. JUSTICE P.D.AUDIKESSAVALU

W.P. No. 28017 of 2019
and
W.P. No. 27630 of 2019

1. Syed Sultan Beevi
2. N.Mohamed Sultan Maraicaair
3. M.Sultani Amma Sahibu
4. N.Haja Mohideen Maraicaair
5. Thaburia Nachiyar
6. N.Bava Mohideen Maraicaair ... Petitioners

Vs.

1. Sub-Divisional Magistrate
and Sub-Collector,
Nagapattinam.
2. Tamil Nadu Wakf Board,
Represented by its
Chief Executive Officer,
No.7/4, 9th Cross Street,
Indira Nagar, Adayar,
Chennai - 600020. ... Respondents

Prayer :- Writ Petition filed under Article 226 of Constitution of India, seeking for a Writ of Certiorari, calling for records of the 1st Respondent notice dated 07.08.2019 in R.C. No. 1230/2019/B3 and quash the same.

For Petitioners : Mr. G. Krishnamurthy

For R1 : Mr. R. Venkatesh
Government Advocate

For R2 : Mr. V. Lakshminarayanan

O R D E R

The Writ Petition has been filed challenging the order R.C. No. 1230/2019/B3 dated 07.08.2019 passed by the First Respondent, viz., Sub-Divisional Magistrate and Sub-Collector, Nagapattinam.

2. On a perusal of the impugned order, it is found that the same is consequential proceedings to give effect to the order dated 09.10.2018 in C.R.P. (NPD) Nos. 296 and 2070 of 2007 passed by this Court, in which it has been held as follows:-

"21. In view of the above discussions, the order of the learned Subordinate Judge (Wakf Tribunal), Nagapattinam is without jurisdiction and therefore, is liable to be set aside. In the result, these Civil Revision Petitions are allowed and the order passed by the Learned Principal Subordinate Judge (Wakf Tribunal), Nagapattinam in W.O.P.No. 1 of 2004 dated 11.11.2005 is set aside. The order of the Petitioner Board dated 24.05.2007 is confirmed and the respondents 1 to 6 herein are directed to hand over possession of property described in the Commissioner's Report within a period of two months from the date of receipt of a copy of the order failing which the Petitioner Board shall immediately thereafter initiate proceedings under Section 55 of the Wakf Act. It is needless to state that meanwhile, it is open to the Wakf Board to approach the Commissioner of Municipality, Nagapattinam to take immediate steps to demolish the unauthorized constructions put up on the property. The respondents 1 to 6 shall pay costs to the Petitioner. Consequently, connected Miscellaneous Petitions are closed."

3. In response to the query raised by this Court, it is informed by the Learned Counsel for the Petitioner that the aforesaid order passed by this Court has not been challenged by way of appeal or any other proceedings in the manner recognized by law and that the same has attained finality.

4. In this incontrovertible fact situation, in the absence of any challenge to the aforesaid order passed by this Court, there is no justification for the Petitioner to question the impugned order, which is consequential proceeding. That apart, no infirmity has been shown to interfere with the impugned order.

5. In the aforesaid circumstances, the Writ Petition cannot be entertained and the same stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (Insp.Cell)

//True Copy//

Sub Assistant Registrar

maya/kv

To

1. The Sub-Divisional Magistrate
and Sub-Collector,
Nagapattinam.
2. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.7/4, 9th Cross Street,
Indira Nagar, Adayar,
Chennai - 600020.

+1 cc to Mr.G.Krishnamurthy, Advocate, S.R.No.81691

+1 cc to the Government Pleader, S.R.No.81928

NMI (CO)
SSM(09/10/2019)

W.P. No. 28017 of 2019



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