

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.01.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.34147/2018

Y.Akbar Ahmed

.. Petitioner

Versus

- 1 The Joint Director and Head of Zone,
O/o.The CBI/ACB Branch, Chennai
3rd Floor, Shastri Bhavan, Haddows Road
Chennai 600 006.
- 2 The Directorate of Vigilance and Anti
Corruption Office, Alandur,
Chennai-16.
- 3 The Secretary
Government of Tamil Nadu
Backward Classes, Most Backward
Classes and Minorities Welfare
Department, Fort St George
Chennai 600 009.
- 4 Mr.Rasheed Ali
The then Chief Executive Officer
Tamil Nadu Wakf Board,
Chennai 600 001.
- 5 Mr.Wazir Ahmed
Presently as Assistant Secretary-1,
and the then Public Information Officer,
Wakf Board, Chennai 600 001.
- 6 Mr.Darez Ahmed
The then Chief Executive Officer
Tamil Nadu Wakf Board
Chennai 600 001.

.. Respondents

Prayer:- Petition filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus directing the 2nd and 3rd respondents herein to conduct a detailed enquiry on the representation dated 04.07.2018 and to dispose of the same on merits and in accordance with law within a stipulated time.

For Petitioner : Mr.Y.Akbar Ahmed
Party-in-Person

For RR 2 and 3 : Mr.E.Manoharan, AGP

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ petition is taken up for final disposal. Mr.E.Manoharan, learned Additional Government Pleader accepts notice on behalf of the respondents 2 and 3.

2 The writ petition is styled as a Public Interest Litigation filed by the petitioner who is the Power of Attorney Holder of Thiru.Ghayazullah and his brothers who are the sons of [late] Md.Habibullah, and he is acting as the Power of Attorney through a registered Document bearing No.44/2013, registered on the file of the office of the Sub Registrar, Saidapet, and the said Power of Attorney authorises him to deal with the vacant land, building and premises comprised in S.Nos.1825, 1826 and 1827, admeasuring to an extent of 16,500 sq.ft., in St.Magazine Road, Butt Road, Chennai-16 and other properties comprised in S.NOs.1791 and 1792, St.Patricks Church Road, admeasuring to an extent of 14,934 sq.ft., in St.Thomas Mount, Chennai-16.

3 The petitioner approached the Tamil Nadu Wakf Board, Chennai-1, stating among other things, that the Wakf Board officials without having any revenue records in respect of the above mentioned properties, is permitting Jumma Masjid Committee Members to trespass into the properties illegally and thereby creating an unlawful atmosphere and it is also the further stand that in respect of the properties in S.Nos.1791 and 1792 in St.Patricks Church Road, St.Thomas Mount, the Tamil Nadu Wakf Board had made corrections in Column No.13[A] of the Proforma Report, as ordered by the Special Officer of the Tamil Nadu Wakf Board, vide proceedings dated 15.12.1992 and pointing out the said infirmities, the petitioner requested the Tamil Nadu Wakf Board to enquire into the matter and pass orders directing the Wakf Board officials not to issue any permission for the Jumma Masjid Committee members and not to provide letter or certificate giving them the above said authorisation or backing them to trespass into the properties comprised in the above said

survey numbers.

4 The Tamil Nadu Wakf Board had conducted a detailed enquiry after affording opportunities of personal hearing and vide proceedings dated 30.05.2018, concluded that the properties have been included as Wakf properties during the survey conducted under the Wakf Act and the Muthavalli Janab Mohammed Habeebullah has stealthily leased out the Wakf properties to his family members for an unending period contrary to the provisions of the Wakf Act and the Rules framed thereunder suppressing certain properties of the Wakf properties to the Survey Commissioner appointed by the Government at the time of initial survey of Wakf properties which are found in the Wakf Deed executed by the Wakif in the year 1905. The Chief Executive Officer of the Wakf Board has further recorded the finding that it is apparent that the Muthavalli Janab Mohammed Habeebullah has committed a breach of trust contrary to the content of the Wakf Deed dated 04.03.1905 [Registered as Doc.No.374/1905] by transferring the Wakf properties in the name of his family members with mala fide intention against the desire of the Wakif who endowed his properties for pious and religious object in perpetuity and the culpability committed by Muthavalli shall be passed on to his heirs in succession executors, administrator and assigns of the lessee so long as they are in possession and enjoyment or enjoying the benefits out of that properties whether directly or indirectly. The Chief Executive Officer, after elaborate consideration of the materials and after affording reasonable opportunity to the concerned parties, has dismissed the petition submitted by the petitioner/party-in-person vide order dated 30.05.2018.

5 The petitioner appearing as Party-in-person, in paragraph Nos.4 and 5 in the affidavit filed in support of this writ petition had narrated the above said facts ; but took a stand that the Tamil Nadu Wakf Board is an Embodiment of corruption and the Wakf properties entrusted to them, are not maintained and administered properly and in this regard, he has also given a complaint/representation dated 04.07.2018 to the 1st respondent and despite the lapse of nearly five months, no action has been taken to address the grievance and left with no other option only, the petitioner/party-in-person is constrained to approach this Court by filing the present writ petition.

6 This Court has carefully considered the submission made by the petitioner party-in-person and perused the materials placed before it in the form of typed set of documents.

7 A perusal of the typed set of documents would disclose that insofar as the complaint given to the Department of Vigilance and Anti Corruption of the Government of Tamil Nadu is

concerned, it has been forwarded to the Secretary to Government, Backward Classes, Most Backward Classes and Minorities Welfare Department, Secretariat, Chennai-9, vide communication of the Director, DVAC dated 14.08.2018. Insofar as the representation/compliant dated 04.07.2018 submitted by the petitioner/party-in-person to the 1st respondent is concerned, it is the case of the petitioner that though nearly five months had lapsed, no action has been taken so far.

8 The fact remains that the petitioner/party-in-person has invoked the jurisdiction of the Tamil Nadu Wakf Board, Chennai-1, and his petition came to be dismissed on 30.05.2018 after an elaborate enquiry and a speaking order and admittedly, the said order is not put to challenge so far. Though the writ petition is styled as a Public Interest Litigation, in the considered opinion of the Court, it is nothing but a private interest litigation for the reason that the petitioner having lost his case before the Tamil Nadu Wakf Board, had turn around and started making allegations of corruption etc., against the very same Board. A perusal of the complaint dated 04.07.2018 which is a single page complaint does not disclose any tenable materials and of course, since the complaint is said to be pending, it is for the 1st respondent to take appropriate action in accordance with law at an early date. Even otherwise, if the petitioner is really aggrieved by the non-disposal of the complaint dated 04.07.2018 submitted to the 1st respondent, he is always at liberty to invoke the provisions of the Right to Information Act, 2005, to find out the status or the stage of the complaint.

9 In the considered opinion of the Court and in the light of the above facts and circumstances, the writ petition styled as a Public Interest Litigation is not maintainable and deserves dismissal and accordingly, the same is dismissed at the admission stage itself. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

AP

To

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+1 cc to The Government Pleader, Sr.No.692

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CA(CO)
CSL/01.02.2019