



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2019

CORAM:

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**THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM  
AND  
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI**

**W.A(MD)NO.493 OF 2019**

M.Abdul Hammed

:Appellant/Petitioner

.vs.

1. The State of Tamil Nadu,  
represented by its Secretary to Government,  
Department of Backward Classes and Wakf,  
Fort St.George,  
Chennai - 600 009.
2. The Tamil Nadu Wakf Board,  
through its Chairman,  
Mannadi,  
Chennai.
3. The Chief Executive Officer,  
Tamil Nadu Wakf Board,  
Chennai-1.
4. The Executive Officer,  
Zonal Superintendent of Wakf,  
Thanjavur.
- 5.Janab Mohammed Haneef,
- 6.Janab P.Kuthpudin
- 7.Janab Lalkhan
- 8.Janab Sathik Batcha
- 9.Janab P.S.Rabik Ahammed : Respondents/Respondents

**PRAYER:** Writ Appeal filed under Clause 15 of the Letters Patent  
praying this Court to set aside the order passed by this Court in  
W.P(MD)NO.11686 2018, dated 06.06.2018.

**Prayer in WP(MD). 11686/ 2018 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining the impugned order in Se.Mu.Order.Na.ka.No.5708/15/Aa7/Thanjai dated 23/05/2018 passed by the 3rd respondent and quash the same and consequently direct the respondents 1 to 3 to continue the 4th respondent to manage the Majid of Bahar Sha Oliyulla Mosque at Mahilambu Thaikkal, Rajagiri, papanasam Taluk, Thanjavur District.

For Appellant : Mr.P.Muthusamy

For Respondent-1 : Mr.P.Kannithevan  
Addl.Govt.Pleader

For Respondent-3 : Mr.T.S.Mohammed Mohideen

For Respondent-4 : Mr.N.Mohideen Basha

**JUDGMENT**

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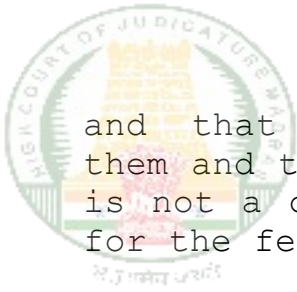
[Judgment of the Court was made by **K.KALYANASUNDARAM, J.**]

Heard Mr.P.Muthusamy, learned counsel appearing for the appellant, Mr.P.Kannithevan, learned Additional Government Pleader appearing for the first respondent, Mr.T.S.Mohammed Mohideen, learned counsel appearing for the third respondent and Mr.N.Mohideen Basha, learned counsel appearing for the fourth respondent and perused the materials placed before this Court.

2.This Writ Appeal is directed against the order of the learned Single Judge passed in W.P(MD)No.11686 2018, dated 06.06.2018.

3.The Writ Petitioner is the appellant. The Writ Petition was filed assailing the order of appointment of five members of Majid of Bahar Sha Oliyulla Mosque at Mahilambu Thaikkal, Rajagiri, Papanasam Taluk, Thanjavur District, by the Tamil Nadu Wakf Board for the purpose of distribution of Ramzan Kanchi and related functions for a period of thirty days. The order of appointment of five member committee was challenged by the appellant on the ground that they have already misappropriated the funds of the Mahilambu Thaikkal and they did not contribute for the Ramzan Kanchi, for the year 2017.

4.The learned Single Judge dismissed the Writ Petition by observing that as per Section 83 of the Tamil Nadu Wakf Act, the remedy of the appellant is before the Wakf Tribunal. The Committee was appointed for a limited period and also for a specific purpose



and that the administration of Majid has not been handed over to them and that the allegations of non-contribution for Ramzan Kanji is not a disqualification for them to be a part of the Committee for the festival.

5. The Order would run thus:

"5. At this juncture, the learned counsel for the first and second respondents submitted that even otherwise the present writ petition is not maintainable, in view of Section 83 of the Wakf Act 1995, since there is an alternative remedy available before the Wakf Tribunal. In support of their contention, they relied upon the judgment reported in **Board of Wakf, West Bengal & another Vs. Anis Fatma Begum & another** reported in **2011 (1) CTC 636**. The relevant portion of the said order reads as follows:

"10. In our opinion, all matters pertaining to Wakfs should be filed in the first instance before the Wakf Tribunal constituted under Section 83 of the Wakf Act, 1995 and should not be entertained by the Civil Court or by the High Court straightaway under Article 226 of the Constitution of India.

.....  
14. Thus, the Wakf Tribunal can decide all disputes, questions or other matters relating to a Wakf or Wakf property. The words "any dispute, question or other matters relating to a Wakf or Wakf property" are, in our opinion, words of very wide connotation. Any dispute, question or other matters whatsoever and in whatever manner which arises relating to a Wakf or Wakf property can be decided by the Wakf Tribunal. The word 'Wakf' has been defined in Section 3(r) of the Wakf Act, 1995 and hence once the property is found to be a Wakf property as defined in Section 3(r), then any dispute, question or other matter relating to it should be agitated before the Wakf Tribunal.

15. Under Section 83(5) of the Wakf Act, 1995 the Tribunal has all powers of the Civil Court under the Code of Civil Procedure, and hence it has also powers under Order 39, Rules 1, 2 and 2-A of the Code of Civil Procedure to grant temporary injunctions and enforce such injunctions. Hence, a full-fledged remedy is available to any party if there is any dispute, question or other matter relating to a Wakf or Wakf property."

The above observation of the Honourable Supreme Court is self explanatory."

6. The learned counsel for the appellant reiterated the case of the appellant, but no additional materials have been brought



on record to substantiate their case. Hence, we find no grounds to interfere with the order impugned in this appeal.

7. In fine, the Writ Appeal fails and the same is dismissed.  
No costs.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS )

To

1. The Secretary to Government of Tamil Nadu,  
Department of Backward Classes and Wakf,  
Fort St. George,  
Chennai - 600 009.
2. The Chairman,  
Tamil Nadu Wakf Board,  
Mannadi,  
Chennai.
3. The Chief Executive Officer,  
Tamil Nadu Wakf Board,  
Chennai-1.
4. The Executive Officer,  
Zonal Superintendent of Wakf,  
Thanjavur.

**JUDGMENT MADE IN  
W.A(MD) No.493 of 2019  
23.04.2019**

**VSN**

AE/ (14.05.2019) 6P 5C