

IN THE HIGH COURT OF JUDICATURE OF MADRAS

RESERVED ON : 30.09.2020

PRONOUNCED ON : 16.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.NO.14127 OF 2012

AND

M.P.NO.1 OF 2012

Ahle Sunnath Wal Jamath Mel Mosque
(Burhan Mosque), Rep. by Mr.M.M.Basheer,
Muthavalli, 3/6, Jafarabad,
Vaniyambadi-635 754. ... Petitioner

Vs.

1. The Secretary to Government,
Backward Class and Minority Welfare
Department, Secretariat, Fort St. George,
Chennai-600 009.
2. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffar Sarang Street,
Vallai Seethakathi Nagar,
Chennai-600 001.
3. The Commissioner,
Vaniambadi Municipality,
Vaniambadi, Vellore District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the
Constitution of India, praying to issue a Writ of Certiorarified
Mandamus, calling for the records of the third respondent dated
08.02.2012 bearing Na.Ka.No.2939/2006/A1 and to quash the same
with consequential direction to the respondents to consider the
petition dated 29.12.2011 by the petitioner with reasonings.

For Petitioner : Mr.H.Nazirudeen
For Respondent : Mr.Mohamed Fayaz Ali
No.2

For Respondent : Mr.J.Pothiraj, SGP
No.3

O R D E R

With the consent of both parties, the present Writ Petition is taken up and heard through Video Conferencing on 30.09.2020.

2. The petitioner herein is a registered and notified Wakf under the control of the second respondent. The Wakf owns several properties which has been leased out to various persons and rental income is claimed to be utilized for maintenance of the Mosque and the burial ground. According to the petitioner, the rental income is very low.

3. The third respondent herein had assessed the property tax of the Wakf properties and since the petitioner is of the view that they are entitled for exemption of the property tax, they filed a Civil Suit in O.S.No.349 of 1998 before the Sub Court, Vellore, which came to be dismissed. The subsequent Writ Petition filed before this Court in W.P.No.25378 of 2009 was also dismissed with liberty to claim exemption of property tax before the third respondent under Section 83(5) of the Tamil Nadu District Municipalities Act, 1920 (hereinafter referred to as the 'Act'). The petitioner's claim for exemption came to be rejected through an impugned order dated 08.02.2012, which is under challenge in the present Writ Petition.

4. The only ground raised by the petitioner is that the subject properties of the petitioner's Wakf have been set apart for religious purposes and therefore, they are entitled for exemption under Section 83 of the Act. Such a claim cannot be sustained, since the general exemptions under Section 83 of the Act brings within its purview only such places which are exclusively for public worship or charitable purposes, among other categories of buildings and lands. In the petitioner's case, it is admitted that the Wakf owns certain properties which have been let out to tenants. The moment the properties fetch income, such properties would come out of the purview of Section 83 of the Act. The reasoning that the properties fetch meager income is not an exception or exemption provided under Section 83 of the Act. Apart from this, the petitioner had already approached the Civil Courts, by filing a Suit in O.S.No.349 of 1998 before the Sub Court, Vellore, seeking for exemption of their properties from levy of property tax and the suit came to be dismissed. The only option that was available to the petitioner is to challenge the Civil Court order by way of an appeal, which admittedly had not been done in this case and therefore the trial Court decree has become final. Having suffered a decree against them before the Civil Court, the present Writ Petition for the same cause of action, is not maintainable. However, the present impugned order dated 08.02.2012 emanates from the liberty granted by this Court in

the earlier Writ Petition in W.P.No.25378 of 2009 and the respondents have also considered the petitioner's claim and rightly rejected it.

5. For all the foregoing reasons, I do not find any infirmity in the decision taken in the impugned order of the third respondent. Accordingly, the Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

DP

To

1. The Secretary to Government,
Backward Class and Minority Welfare
Department,
Secretariat, Fort St. George,
Chennai-600 009.
2. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffar Sarang Street,
Vallai Seethakathi Nagar,
Chennai-600 001.
3. The Commissioner,
Vaniambadi Municipality,
Vaniambadi, Vellore District.

+1cc to Mr.P.Haribabu, Advocate, S.R.No.34862

+1cc to the Government Pleader, S.R.No. 34767, 34716

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SV(CO)
CS/09/12/2020