



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R. MAHADEVAN

W.P. No. 10282 of 2013

and

M.P. No. 2 of 2013

Hasarath Syed Sadik
Voliyullah Durga & Mosque Trust
rep. by its Member Secretary
Mr.M.Shahabudeen
Syed Sathiq Nagar, Mangaadu,
Kancheepuram District

.. Petitioner

Versus

1. The Revenue Divisional Officer
Office of the Revenue Divisional Officer
Collector's Office
Kancheepuram.
2. The Inspector of Police
T-14, Mangadu Police Station
Mangadu.

.. Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus forbearing the respondents from interfering with the day to day administration of the petitioner;s Trust without due process of law.

For Petitioner : M/s.Achari and Antoni

For Respondents 1 & 2 : Mr.Stalin Abhimanyu
Government Advocate

ORDER

The petitioner has come up with this Writ Petition seeking to issue a Writ of Mandamus forbearing the respondents from interfering with the day to day administration of the petitioner's Trust without following the due process of law.

2. According to the petitioner Trust, after the demise of Muthavalli and Managing trustee by name Mr.T.A.Mohammed Sultan,



the Constitutional Receiver of the petitioner Trust has nominated one Hajee M. Abdul Rahman as new Muthavalli and other members of the Jamath committee on 20.06.2012. Since the newly formed committee has misappropriated the funds of the Trust and acted against the interest of the petitioner Trust, the Constitutional Receiver of the petitioner Trust dissolved the Jamath Committee headed by Hajee M. Abdul Rahman on 13.11.2012 and subsequently formed a new Jamath Committee on 22.11.2012 and nominated one Mr. Hajee M. Abdul Haleem as Muthavalli of petitioner Trust. As the previous Jamath Committee Members headed by S. Abdul Rahman started creating problems and interfered with the affairs of the petitioner Trust, the petitioner trust made a complaint to the 2nd respondent requesting to take action against those persons and protect the trust and its property. However the 2nd respondent erroneously forwarded a report to the 1st respondent under section 145 Cr.P.C., based on which, the 1st respondent issued a show cause notice on 31.12.2012 to the members of the newly formed Jamath committee and the members of previous Jamath Committee as if it resulted in a law and order problem and such proceeding initiated by the first respondent is still pending.

3. It is the grievance of the petitioner that under the guise of enquiry, the 1st respondent has directed the petitioner Trust to get permission from the 2nd respondent to do their day to day administration of the petitioner Trust, which is ex facie illegal and beyond their authority. Hence, left with no other alternative, the petitioner has filed the present writ petition.

4. Heard both sides and perused the materials available on record.

5. Refuting the averments contained in the Writ Petition, the 2nd respondent filed a counter affidavit, wherein, in paragraph 12, it is mentioned as follows;

'12. It is an admitted fact that Tr. Hajee Abdul Rahman is Muthavalli. The petitioner claims that his position as Muthavalli came to an end by dissolution of the committee and replaced by forming a new committee. The petitioner at para 4 accuses that the earlier committee mismanaged the funds of trust and refused to deposit the amount collected and at para 5 admits that the former committee under Tr. Abdul Rahman created problems which resulted in a complaint to 2nd respondent by the petitioner. The petitioner has suppressed the complaint which is earlier in point of time assigned with CSR.No.872/2012 dt: 25.10.2012 while the petitioner has chosen to give the complaint on 27.11.2012 assigned with CSR.No.1100/2012.'



6. In the counter affidavit, the respondent also states that the petitioner only complained of creation of problems by the erstwhile committee headed by Tr.Abdul Rahman and interference of the affairs on the petitioner trust and the situation only necessitated the respondents to invoke section 145 Cr.P.C., for the purpose of maintaining harmony and they are not violating any of the rules and regulations.

7. In such a view of the matter, this Court is of the view that interference, if any, by the respondents is to ensure harmony and peace in the functioning of the petitioner Trust on the basis of the complaint received by the second respondent. Therefore, it cannot be said that the respondents have, without any justification, interfered with the affairs of the petitioner's trust. While so, this Court is not inclined to issue any direction to the respondents, as prayed for by the petitioner in this writ petition. Accordingly, by recording the averments made in the counter affidavit of the second respondent, this Writ Petition stands disposed of. No costs. Consequently, connected M.P.No.2 of 2013 is closed

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

msr/rsh

To

1. The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Collector's Office,
Kancheepuram.
2. The Inspector of Police,
T-14, Mangadu Police Station,
Mangadu.

WP No.10282 of 2013

SSI (CO)
CT(26/08/2021)