

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2021

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P (PD) No.187 of 2020
and
C.M.P. No.1044 of 2020

Dadashamakkan Wakf Managing Committee,
Represented by Secretary,
H. MOhammed Sajath,
S/o. Late. Hameed Hassan,
No.5, Dargah Street,
Dadashamakkan, Chennai -12 ... Petitioner

Vs.

1. G.M. Syed Fasi Mohammed,
2. The Tamil Nadu Waqf Board,
Rep. by its Chief Executive Officer,
No.1, Jafar Syrang Street,
Vallal Seethakathi Nagar, Chennai- 1. ... Respondents

Prayer: This Civil Revision Petition filed under Article 227 of the Constitution of India praying for to aside the fair and decreetal order dated 23.12.2019 made in I.A.No.20 of 2019 in O.A.No.258 of 2019 on the file of the Waqf Tribunal, Chennai.

For Petitioner	... Mr.S. Sounthar
For Respondent-1	... Mr. Y.Kajanavas
For Respondent-2	...Mr. H. Yasmen Ali

ORDER

The Civil Revision Petition has been filed under Article 227 of the Constitution of India praying for to aside the fair and decreetal order dated 23.12.2019 made in I.A.No.20 of 2019 in O.A.No.258 of 2019 on the file of the Waqf Tribunal, Chennai.

2. The case of the petitioner is that the petitioner is the newly elected Secretary of the Dadasha Makkan Waqf Managing Committee. The petitioner herein has filed O.A.No.258 of 2019 under Section 83(1) & (2) of the Waqf Act, on the file of the Waqf Tribunal, Chennai, against the 1st respondent seeking for to grant a permanent injunction restraining the 1st respondent, his men or agents or any other person on behalf of the 1st respondent from in any manner interfering in the day to day function, management and administration of the affairs of Dadashamakan Waqf and its schedule mentioned properties and direct the 2nd respondent to enquire into the allegations made in the application and initiate appropriate action against the 1st respondent for the illegalities and corrupt practices made by the 1st respondent during his tenure as a Secretary of the petitioner waqf. Pending the said O.A, the petitioner

Waqf has filed I.A.No.20 of 2019 under Order 39 Rule 1 & 2 read with Rule 10 of C.P.C. on its file seeking for to pass an order of interim injunction restraining the 1st respondent and his men from in any manner interfering in the day to day function, management and administration of the affairs of Dadashamakkan Waqf, and its properties. The Tribunal dismissed the aforesaid I.A. and also vacated the ad-interim stay by order dated 23.12.2019 as the allegations levelled against the 1st respondent have not been proved by the petitioner. Being aggrieved, the petitioner has filed the present Civil Revision petition to set aside the same.

3. The learned counsel for the petitioner would submit that the Tribunal failed to appreciate that the police complaint has been made against the 1st respondent herein only if the 1st respondent unnecessarily has been interfering with the day to day function in the Management of the present committee. The Tribunal has not considered the counter filed by the 2nd respondent wherein it has been stated that the 1st respondent indulged gross irregularities and corruptive practices. In this connection, the 1st respondent has been warned by the 2nd respondent and asked the

1st respondent to submit an undertaking that he should not be indulged in any malpractices in future. After having substantiated in the counter of the 2nd respondent, without considering it, the Tribunal has only considered Ex.R.17 which has been received under RTI by the 1st respondent. While the 1st respondent has no locus standi to interfere with the administration of the Waqf, vacation of interim stay will make him to interfere with the function of the Waqf and issue anti-dated NOC. Hence, the order dated 23.12.2019 passed in I.A. No.20 of 2019 is liable to be set aside.

4. The learned counsel for the 2nd respondent would submit that since there were gross irregularities and mismanagement of the Waqf, the administration of the Waqf came under the direct management of the Tamil Nadu Wakf Board. It came to know that there are disputes and difference between the petitioner and 1st respondent as stated by the present committee members. Hence, this Court may direct the members of the committee to act as per the guide lines framed by Tamilnadu Waqf Board.

5. Heard, the learned counsel appearing for both sides and perused the material available on record.

6. On a perusal of the record, it is seen that the petitioner herein is levelling allegations against the 1st respondent for having his involvement in the day to day function of the newly elected committee and so on. On the other hand, the 1st respondent is denying all the allegations levelled by the petitioner herein. Further, in the findings of the Tribunal, the allegations against the 1st respondent has not been proved by the petitioner herein, and hence it has dismissed the application and vacated the ad-interim stay granted against the 1st respondent herein.

7. Having considered the aforesaid facts and circumstances of the case and in the interest of justice, this Court is of the view that as the issue of the case between the erstwhile secretary and the present secretary of the committee, the main O.A.No.258 of 2019 ought to have been decided on the file of the Tribunal to solve the issue erupted between them instead of reviewing the order dated 23.12.2019 passed in

V.BHAVANI SUBBAROYAN, J.,

lbm

I.A.No.20 of 2019. Hence, the Tribunal is directed to take up the matter in O.A. No.258 of 2019 for final disposal and decide the same after hearing both sides within a period of three months from the date of receipt of copy of this order. In the meanwhile, both parties are hereby directed to maintain Status Quo and 1st respondent is directed not to interfere with the affairs of the Committee till the disposal of O.A.No.258 of 2019.

8. With the above directions, the Civil Revision petition is disposed of. Consequently, connected miscellaneous petition is closed if any. No costs.

04.03.2021

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Index: Yes/No.

Speaking/Non-Speaking order

Internet: Yes/No.

Copy to:

The Tamil Nadu Waqf Board,
No.1, Jafar Syrang Street,
Vallal Seethakathi Nagar, Chennai- 1.

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