



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P. No. 16502 of 2021

and

WMP Nos. 17476 & 17477 of 2021

Moazam Sheriff

..Petitioner

Versus

1. Mazharuddin Sheriff
Joint Mutawalli
Hazrath Moti Baba Dargha,
Moti Baba Lane, No.422, Pantheon Road,
Egmore, Chennai-8.
2. Mukram Sheriff,
3. The Tamil Nadu Wakf Board,
represented by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai-1.
4. The Tamil Nadu Wakf Tribunal,
2nd Floor, Slum Clearance Board,
Chennai.

.. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the fourth respondent in order dated 29.7.2021 and made in I.A.No.319 of 2021 in O.S.No.24 of 2021 and quash the same.

For Petitioner : Mr.N.A. Nisar Ahmed

For Respondents : Mr. T.T.Ravichandran - R1

Mr. C. Shankar - R3

R2 & R4- No appearance



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ORDER

The petitioner calls in question the order dated 29.7.2021 made in I.A.No.319 of 2021 in O.S.No.24 of 2021 on the file of the fourth respondent and seeks to quash the same.

2. According to the petitioner, he and one Moinuddin Sheriff are the Joint Mutawallis of Hazrth Moti Bab Dargha. While so, after the death of Moinuddin Sheriff on 10.05.2021, the petitioner discharged the duties of Mutawalli of the said Dargha. While so, the first respondent herein, who is the brother of the deceased Moinuddin Sheriff, filed a suit in O.S.No.24 of 2021 before the fourth respondent Tribunal to declare him as the joint Mutawalli of the said Dargha and for permanent injunction. Along with the suit, he also filed I.A.No.319 of 2021 in O.S.No.24 of 2021, in which the fourth respondent granted an order injunction on 29.07.2021 in favour of the first respondent to act as Joint Mutawalli of the Wakf.

3. It is the grievance of the petitioner that the first respondent, taking advantage of the interim order granted by the Tribunal, is now attempting to usurp the office of Mutawalli. It is also stated that the interim order granted by the Tribunal tantamounts to granting the relief in the main suit. Thus questioning the order passed in I.A. No.319 of 2021 in O.S. No. 24 of 2021, this writ petition is filed.

4. According to the learned counsel for the petitioner, the interim order granted by the tribunal is exfacie illegal and is in violation of the principles of natural justice. The third respondent-Wakf Board is the competent authority to appoint a Mutawalli and the Tribunal ought not to have ventured into the powers of the third respondent at the instance of the first respondent.

5. The learned counsel appearing for the first respondent as well as the third respondent, on the other hand, submitted that there is nothing on record to show that interim order granted on 29.07.2021 has been extended by the Tribunal. The interim order was passed as a measure of interim arrangement until 12.08.2021. In that event, the relief sought for in the writ petition itself has become infructuous. He also brought to the notice of this Court that the application seeking interim injunction is still pending consideration before the Tribunal.

6. In view of the above submission made by the learned counsel appearing for the respondents 1 and 3, the fourth respondent Tribunal is directed to pass necessary orders in I.A.No.319 of 2021 in O.S.No.24 of 2021, pending on its file on



merits and in accordance with law, after affording opportunity to all the parties.

7. This writ petition stands disposed of in the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

msr/rsh

To

1. The Tamil Nadu Wakf Board,
represented by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai-1.
2. The Tamil Nadu Wakf Tribunal,
2nd Floor, Slum Clearance Board,
Chennai.

+1CC to Mr.C.Shankar, Advocate, Sr.No.47070

+1CC to Mr.N.A.Nissar Ahmed, Advocate, Sr.No.46736

WP No.16502 of 2021

PCH (CO)

K.RK. (18.10.2021)