



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

WP No. 26321 of 2017

and

WMP Nos. 27977 & 27978 of 2017

S.Mohammed Akbar

...Petitioner

Versus

1. The Chairman
Tamilnadu Wakf Board
No.1, Jabbar Sirang Road,
Vallal Seetha Kadhi Nagar
Chennai.
2. The Chief Executive Officer
Tamilnadu Wakf Board
No.1, Jabbar Sirang Road,
Vallal Seetha Kadhi Nagar
Chennai.
3. The Superintendent of Wakf
Tamilnadu Wakf Board
Cuddalore Circle,
No.512, Gandhi Road
Panruti - 607 106.
Cuddalore District

...Respondents

Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the entire records relating to the impugned notice issued by the 3rd Respondent in his proceedings No.67 and 68/SA, dated 18.09.2017 published in Dinathanthi, dated 20.09.2017.

For Petitioner : Mr. C. Prakasam
For R 1 to R3 : Mr. V. Ragavachari

O R D E R

The petitioner challenges the notice dated 18.09.2017 of the third respondent, by which, the third respondent called upon applications for appointment of Board of Trustees to the Big Mosque situated in Udayarkudi, Kattumannarkoil Taluk, Cuddalore District.



2. The petitioner would contend that the properties comprised in Survey No.71/1 measuring 2.35 acres, Survey No.84/9 to the extent of 2.35 acres, Survey No.84/10 measuring 0.92, Survey No. 88 measuring 11.12 acres and Survey No.147/12 to an extent of 0.58 acres in Udayarkudi Village, Kattumannar Koil Taluk, Cuddalore District have been given to his great grand father by the British officials for the efficient discharge of duty under their regime. It is further stated that after the death of his great grand father, his grand father was in possession and enjoyment of the aforesaid properties. While so, there was a dispute between the family of the petitioner and the local mosque claiming rival right over the above properties. Therefore, a suit in O.S. No. 9 of 1902 was filed before the Principal Subordinate Judge, South Arcot District which ended in compromise. As per the compromise, the properties were allotted to Udayarkudi Mosque on condition that the amount generated through the use of the aforesaid lands shall be utilised by the mosque for their expenses and the balance amount, after meeting all the reasonable expenses, can be paid to the family of the petitioner. As per the compromise decree, the family of the petitioner was in receipt of the amount from the mosque. When there was a further dispute with respect to the receipt of the loan, A.S. No. 5 of 1956 was filed before this Court and this Court appointed an Advocate Receiver and thereafter, the petitioner was appointed as one of the Managing Trustees of the Mosque. While so, the third respondent issued the impugned notice dated 18.09.2017, which was published in one issue of Tamil Daily Dinathanthi on 20.09.2017 calling upon applications for appointment of Trustees to the mosque. Aggrieved by the same, the petitioner has filed this writ petition for the relief of quashing the notice dated 18.09.2017.

3. Pending writ petition, by order dated 09.10.2017, this Court granted an interim stay on condition that the appointment of the Trustees, if any, during the pendency of the writ petition, will be subject to the result of this writ petition.

4. The learned counsel for the petitioner submits that this Court in the Judgment and Decree dated 14.08.1959 passed in A.S. No. 5 of 1956 framed a scheme for appointment of Trustees for the Big Mosque, Udayarkudi but the same were not followed by the third respondent while issuing the impugned notice dated 18.09.2017. Even in the impugned notice dated 18.09.2017, the judgment passed by this Court in A.S. No. 5 of 1956 has not been referred to by the third respondent. Thus, it is the contention of the counsel for the petitioner that the impugned notice dated 18.09.2017 of the third respondent is contrary to the scheme decree framed by this Court in A.S. No. 5 of 1956.



5. The learned counsel for the respondents 1 to 3 brought to the notice of this Court that the notice dated 18.09.2017 has been issued by the third respondent as per the directions issued by this Court in WP No. 7378 of 2014, 37465 of 2005, 8594 of 2010 and C.R.P. (PD) No. 392 of 2016. The learned counsel for the third respondent also invited the attention of this Court to the order dated 05.01.2018 passed by this Court by which the respondents herein were directed to examine the scheme decree passed in O.S. No. 53 of 1952 and the need for appointment of fresh office bearers under the scheme or to permit the existing office bearers. Thus, it is submitted that pursuant to the order dated 05.01.2018 passed by this Court in WP No. 7378 of 2004, 37465 of 2005 and CRP (PD) No. 392 of 2006, the notice dated 18.09.2017 was issued and it cannot be called in question by the petitioner. The learned counsel for the respondents therefore prayed for dismissal of this writ petition.

6. Heard the counsel for both sides and perused the materials placed. It is evident that the notice dated 18.09.2017 was issued by the third respondent as per the directions issued by this Court in WP No. 7378 of 2004, 37465 of 2005 and CRP (PD) No. 392 of 2006. Therefore, it cannot be said that the third respondent has issued the notice dated 18.09.2017 without any authority of law or in contravention of the scheme decree framed by this Court. However, this Court is of the view that the third respondent, while appointing the Trustees to the Big Mosque as well as Thaikal Wakf, has to consider the claim of the petitioner as well, if the Trustees are not appointed so far pursuant to the notice dated 18.09.2017.

7. With the above direction, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

av/rsh
To

1. The Chairman
Tamilnadu Wakf Board
No.1, Jabbar Sirang Road,
Vallal Seetha Kadhi Nagar
Chennai.



2. The Chief Executive Officer
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3. The Superintendent of Wakf
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Cuddalore District

+1 CC to Mr.C.Prakasam, Advocate, Sr.No. 33106.

WP No. 26321 of 2017

GPL(CO)
LS(26/08/2021)