



WEB COPY

W.P(MD)No.4220 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:09.03.2021

CORAM

THE HONOURABLE MR.JUSTICE **V. PARTHIBAN**

W.P(MD)No.4220 of 2021

and

W.M.P(MD)No.3393 of 2021

A.H.Ibrahim

...Petitioner

Vs

1. The Tamil Nadu Wakf Board,
Represented by its Chief Executive Officer,
No.1, Jaffer Shrirang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.
2. The Superintendent of Wakf,
Kazimar Street Big Mosque,
Having office at No.1, Town Hall Road,
Madurai.
3. The Revenue Divisional Officer,
Madurai.
4. The Commissioner of Police,
Madurai City, Madurai.
5. The Inspector of Police,
Thideer Nagar Police Station, Madurai.
6. Janab S.A.Fakrudeen Ibarahim

... Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to immediately takeover the possession of Kazimar Street Periyapallivasal Muslim Jamath Wakf, Madurai and its bank accounts and properties and that the respondents 4 and 5 to give adequate police protection and to enforce the directions dated 25.09.2018 passed in W.A(MD)No.702 and 703 of 2016 on the file of this Court.

For Petitioner

: Mr.G.Prabhu Rajadurai

For respondent

: Mr.S.A.Ajmal Khan

Nos.1 & 2

For Respondent

: Mr.M.Raja Rajan,

Nos.3 to 5

Additional Government Pleader

**ORDER**

The petitioner claims himself as the President of the Kazimar street muslim jamath. According to him the said mosque has been in existence for three centuries and owns valuable lands and other properties in Madurai. Kazimar street pallivasal is a notified wakf under G.S.No.112/Madurai. Due to certain action in respect of mismanagement and mal-administration of the Jamath/ wakf, a complaint was preferred to the Wakf Board. The Wakf Board intervened and passed a resolution dated 23.10.2013 taking over the management of the wakf and appointed the second respondent as the Executive Officer.

2.Despite the appointment of the second respondent as the Executive Officer, the dispute could not be settled and the dispute finally culminated before the Division Bench of this Court in W.A (MD)Nos.702 and 703 of 2016. The Division Bench, hearing the parties passed a direction disposing of the appeals on 25.09.2019 in paragraph No.32 as under:

"32.In the light of the above discussion, we are not inclined to interfere with the impugned order of the learned single Judge. Accordingly, these appeals are disposed of, in the following terms:

(i) The appellant herein is directed to handover charge and deliver possession of the records, accounts and all the properties of the Wakf, including cash, to the Executive Officer of the Board within a period of four weeks from the date of receipt of a copy of this order, failing which, he will be liable to the penal provision of Section 68 of the Act.

(ii) The Board shall frame a scheme in terms of the directions contained in the order passed by this Court as early as on 22.12.2011, by following the statutory provisions of the Act, within a period of two months from the date of handing over of the management by the appellant.

(iii) Needless to say that while framing the scheme, the Board shall afford an opportunity to all the interested persons and take into account all the relevant aspects.

3.The grievances of the petitioner herein is that the respondents are attempting to dilute the directions as extracted above and hence the writ petition has been filed seeking to issue a writ of mandamus in terms of the directions of the Division Bench as above.

4.This Court is unable to appreciate as to how a writ petition can be filed in the matter when the Division Bench of this Court has given a comprehensive direction to the first respondent as extracted supra. In case the petitioner is aggrieved by the non-implementation of the order of the Division Bench, it is open to the petitioner to work out his remedy before the Division Bench, but not to file a



separate writ petition by converting this Court into an execution court for executing the order of the Division Bench.

5. When the subject matter of dispute is covered by the decision of the Division Bench, any issue touching upon the subject matter must be dealt with by the Division Bench concerned and not before a single Judge of this Court. In any event, the dispute of this nature cannot be a subject of adjudication before a single Judge of this Court in the facts and circumstances of the case and therefore, the writ petition is liable to be dismissed.

6. In view of the above, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

dsk

To

1. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffer Shrirang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.
2. The Superintendent of Wakf,
Kazimar Street Big Mosque,
Having office at No.1, Town Hall Road, Madurai.
3. The Revenue Divisional Officer,
Madurai.
4. The Commissioner of Police,
Madurai City, Madurai.
5. The Inspector of Police,
Thideer Nagar Police Station, Madurai.

+1 CC to SPL GP (SR-10109[F] dated 10/03/2021)

+1 CC to Mr.G.PRABHU RAJADURAI, Advocate (SR-9987[F] dated 10/03/2021)

W. P (MD) No. 4220 of 2021

09.03.2021