



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2021

CORAM

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.4880 of 2021

and

W.M.P. (MD) No.3962 of 2021

WEB COPY

Ubaithur Rahman

.. Petitioner

vs

1.The Tamil Nadu Wakf Board,
represented by its Chief executive Officer,
No.1, Jaffar Syrang Street,
Vallal Seethakadi Nagar,
Chennai 600 001.

2.The Superintendent of Wakfs,
South Zone,
Madurai.

3.The Wakf Inspector,
Dindigul.

4.The Superintendent of Police,
Dindigul District,
Dindigul.

5.The Inspector of Police,
Palani Town Police Station,
Palani.

6.Palani Town Muslim Dharmaparlipala Sangam,
represented by its President/Mutawalli,
Palani Town,
Dindigul District.

7.Kaizer

8.Peermohamed

9.Sahul Hammed

10.Premnazer

.. 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 5 to take penal action against the respondents 7 to 10 and to put petitioner in possession of the shop in Door No.79, Gandhi Road, Palani Town, Dindigul District and to return the cash of 3 lakhs and four crores worth of goods looted from petitioner shop.



For Petitioner : Mr.K.K.Senthil
For R1 to R3 : Mr.S.A.Ajmal Khan
For R4 & R5 : Mr.M.Karuppasamy
Government Advocate

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ORDER

The petitioner claims to be a business man involved in the business of textile, fabric, readymade garments and having a coir shop in the name and style of Shobikka, Cloth shop at Door No.79, Gandhi Road, Palani Town. The shop belongs to the 6th respondent Sangam, which is a registered Wakf coming under the supervisory jurisdiction of the 1st respondent, Tamilnadu Wakf Board. According to him, he has been paying monthly rent for the last 20 years for running the shop.

2.According to the petitioner, the respondents 7 and 8 claim to be the office bearers of the 6th respondent Sangam and had trespassed into the shop along with their henchmen and abused the petitioner and others of the shop and damaged several materials and articles that were stored in the shop and a complaint was also made in respect of the incident to the 5th respondent/Inspector of Police, Palani Town Police Station, Dindigul District. It appeared that due to the intervention of the 5th respondent police, the shop was sealed and locked. In the said circumstances, the petitioner had approached this Court in W.P.(MD) No.19684 of 2018 to remove the seal and unlock the shop and this Court, vide order dated 19.09.2018, had directed the respondents to unlock the premises and to put the same in the petitioner's possession.

3.Thereafter, the Wakf officials with the assistance of the police had unlocked the premises and handed over the same to the petitioner and his partner. In fact, a writ appeal in W.A.(MD) No.661 of 2019 was filed against the interim order, dated 19.09.2018, but the same came to be closed after recording the development that the shop being unlocked and the business being carried on as usual by the petitioner. In the meanwhile, the 6th respondent filed a petition in Wakf Original Petition No.1 of 2018 before the Wakf Tribunal, for grant of injunction that the possession of the shop is with him and the same should not be disturbed. The petitioner being taken by surprise of a different stand adopted by the 6th respondent, he was constrained to file a review application in R.A.(MD) No.260 of 2019 in the already disposed of W.A.(MD) No.661 of 2019.

4.While the matter stood thus, according to the petitioner, on 21.02.2021, the respondents 7 and 8 with the support of their henchmen had trespassed once again into the shop of the petitioner by assaulting the petitioner's partner in the presence of many



persons around the shop and a complaint was also made to the official respondents and the same has not yielded any response and therefore, the petitioner is before this Court.

5. From the above narrative, it could be seen that the petitioner appears to have a criminal dispute between him and the other private respondents and a criminal case in Cr.No.108 of 2021 on the file of the Palani Town Police Station against the respondents 7 to 10 was also registered under various Sections of Indian Penal Code. Being the position, this Court is unable to appreciate as to how the present writ petition could be maintained in order to issue a direction to the official respondents to take criminal action against the respondents 7 to 10. In any event, it is not for the writ Court to issue such direction in exercising its extraordinary jurisdiction and it is not for this Court also to take cognizance of the self-serving averments of the petitioner alone in order to direct the police officials to take action against the private respondents. These matters require factual investigation and the proper course for the petitioner is either to approach the police officials or to approach the official concerned and not invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

6. This Court is of the view that this writ petition is completely misconceived and the same cannot be entertained, considering the facts and circumstances of the case.

7. For the above said reasons, the writ petition stands dismissed as not maintainable. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (records)

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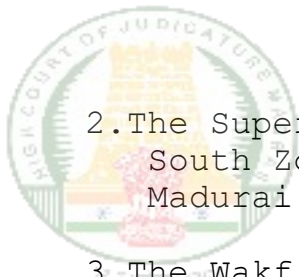
Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Tamil Nadu Wakf Board,
represented by its Chief executive Officer,
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<https://hcservices.ecourts.gov.in/hcservices/>



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4.The Superintendent of Police,
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Dindigul.

5.The Inspector of Police,
Palani Town Police Station,
Palani.

+1 CC to M/s.K.K.SENTHIL, Advocate (SR-9082[F] dated 05/03/2021)

+1 CC to M/s.SPL GP (SR-9482[F] dated 08/03/2021)

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VR(CO)
KB(15.04.2021) 4P 8C