



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2021

CORAM

THE HON'BLE Mr.JUSTICE M.SUNDAR

W.P(MD) .No.11138 of 2018

and

W.M.P(MD) .Nos.12957 and 10193 of 2018

WEB COPY

P.Mohammed Gani

... Petitioner

-Vs.-

1. The Tamil Nadu Wakf Board,
Rep. by its Chief Executive Officer,
Chennai.
2. The Tamil Nadu Wakf Board,
Rep. by its Superintendent,
Thanjavur.
3. The Inspector of Wakf (incharge),
Thanjavur District.
4. The Inspector of Police,
South Police Station,
Thanjavur.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the third respondent in Na.Ka.No.Reg.326/Va.AA/Arivippu/Thanjavur dated 10.04.2018 and consequential impugned order of the second respondent in Na.Ka.G.S.No.326/Thanjai/Va.Ka./2018 dated 11.05.2018, quash the same and consequently direct the respondents herein not to interfere with the management and administration of the petitioner Wakf till the disposal of the Wakf OP.No.18 of 2017 on the file of Hon'ble Wakf Tribunal, Thanjavur.

For Petitioner : Mr.P.Vadivel
For Respondents : Mr.M.Mohideen Basha,
Standing Counsel for R1 to R3
Mr.M.Lingadurai,
Spl.Govt.Pleader for R4
Mr.S.M.A.Jinnah
(Impleading WMP)



O R D E R

Captioned main writ petition arises under 'the Waqf Act, 1995 (43 of 1995)' [hereafter 'said Act' for the sake of convenience and clarity].

2. A communication dated 10.04.2018 bearing reference Na.Ka.No.Reg.326/Va.AA/Arivippu/Thanjavur together with proceedings dated 11.05.2018 bearing reference Na.Ka.G.S.No.326/Thanjai/Va.Ka./2018 have been assailed in the captioned writ petition.

3. Mr.P.Vadivel, learned counsel for writ petitioner, Mr.N.Mohideen Basha, learned Standing Counsel for Tamil Nadu Waqf Board on behalf of respondents 1 to 3, Mr.M.Lingadurai, learned Special Government Pleader representing the Additional Public Prosecutor on behalf of the fourth respondent and Mr.S.M.A.Jinnah, learned counsel for the petitioner in W.M.P(MD).No.12957 of 2018 (implead petition) are before this Court.

4. The aforementioned impugned proceedings pertain to taking over of direct management of 'Jamiah Masjith Pallivasal, Burma Colony in Thanjavur District' (hereinafter 'said Waqf' for the sake of convenience and clarity).

5. The writ petitioner along with three others had earlier filed a petition under Section 83 of the said Act in the jurisdictional Waqf Tribunal *inter alia* with a prayer that the petitioner and three others are entitled to be in management of said Waqf till 18.06.2019.

6. There is no disputation qua the aforementioned petition before the jurisdictional Waqf Tribunal viz., Wakf OP.No.18 of 2017, that it is pending and that the prayer has become infructuous. In this view of the matter, learned Standing Counsel for Tamil Nadu Waqf Board also submits on instructions that the take over of direct management stood reversed owing to interim orders in captioned proceedings, and that the writ petitioner along with three others is in management of said Waqf and that the writ petition itself has now become infructuous as the aforementioned 18.06.2019 date has since elapsed.

7. Learned counsel for writ petitioner submits that the impugned order is without jurisdiction. It is made clear that this question is left open to be decided in a matter where legal tussle on this aspect of the matter becomes imperative to answer/arrive at a conclusion in the writ petition.



8. As far as the implead petition is concerned nothing would survive in the same as this Court is informed that the implead petitioner is also in a tussle with the writ petitioner and three others qua management of said Waqf.

9. Learned counsel for Tamil Nadu Waqf Board states, on instructions, that elections will be conducted in accordance with obtaining circulars and obtaining procedures as expeditiously as the business of Board would permit.

10. Recording the stated positions of the parties and leaving open the question regarding the jurisdiction of the first respondent to pass orders of the nature on hand, captioned writ petition is disposed of as closed. Consequently, W.M.P(MD) No.10193 of 2018 is disposed of as closed. W.M.P(MD) No.12957 of 2018 (implead petition) is closed and disposed of as otiose. There shall be no order as to costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The Chief Executive Officer,
Tamil Nadu Wakf Board, Chennai.
2. The Superintendent,
Tamil Nadu Wakf Board, Thanjavur.
3. The Inspector of Wakf (incharge),
Thanjavur District.
4. The Inspector of Police,
South Police Station, Thanjavur.

+1 CC to M/s.P. VADIVEL, Advocate (SR-34900[F] dated 18/11/2021)
+1 CC to M/s.SPL GP (SR-34933[F] dated 18/11/2021)

W.P(MD).No.11138 of 2018

17.11.2021

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