



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2021

CORAM

THE HON'BLE MR. JUSTICE M.SUNDAR

W.P (MD)No.4872 of 2016

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Mohideen Andavar Jumma Pallivasal,
Mallipattinam-614 723,
Pattukottai Taluk,
Thanjavur District.
Rep.by its President,
K.M.Allah Pitchai,
S/o.Mohideen Pitchai,
Mallipattinam-614 723,
Pattukottai Taluk,
Thanjavur District.

... Petitioner

Vs.

- 1.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.7/4, 9th Cross Street,
Indira Nagar,
Chennai-600 020.
- 2.The Revenue Divisional Officer,
Pattukottai-614 601.
- 3.The Wakf Superintendent,
No.27, Court Road,
Dhivan Nagar,
Thanjavur-614 001.
- 4.V.Mohammed Rafiq,
Former Jamath President,
Near G.K.Mooppanar Kalyana Mandapam,
Harbour Road,
Mallipattinam-614 723,
Pattukottai Taluk,
Thanjavur District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus, directing the second respondent to take proceedings as against the fourth respondent under Section 68(3) of the Wakf Act, and taken penal action, on the complaint dated 23.01.2016 made by the petitioner to the second respondent and as reminded by the representation dated 20.02.2016 and recover all the properties of the petitioner Pallivasal viz., Mohideen Andavar Jumma Pallivasal, from the fourth respondent, within a time frame as may be fixed by this Court.



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For Petitioner : Mr.B.B.Chandrakala
for M/s.P.Jessi Jeeva Priya
For Respondents : Mr.Karthikeyan,
for Mr.K.K.Senthil,
Standing Counsel for R1 & R3
Ms.Viji
for Mr.S.Deenadhaylan
for R4
Mr.M.Lingadurai,
Special Government Pleader for R2.

O R D E R

Read this in conjunction with and in continuation of earlier proceedings made in the previous listing on 12.11.2021 which reads as under:

" Ms.P.Jessi Jeeva Priya, learned counsel representing the counsel on record for writ petitioner is before this virtual Court. Learned counsel requests for an adjournment. Mr.N.Mohideen Basha, learned Standing Counsel for Tamil Nadu Wakf Board submits that he would be representing respondents 1 and 3. Registry to show the name of learned Standing Counsel from next listing.

2. Mr.M.Lingadurai, learned Special Government Pleader is before this Court on behalf of second respondent. Mr.Suruliraj, learned counsel representing Mr.S.Deenadhayalan, counsel for fourth respondent (private respondent) is also before this Court.

3. Registry to not to show the name of Mr.S.Subbiah from the next listing as learned counsel has since been designated as a senior advocate by this Court.

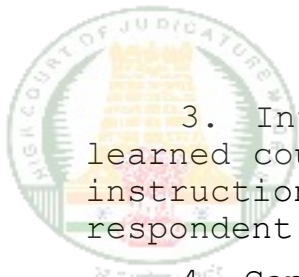
4. This Court is informed second named counsel on record (Mr.N.Subramanian) is no more. Therefore, Registry shall show (in the cause list) name of the third named counsel Mr.G.Aravinthan alone from next listing.

5. Adjourned at the request of learned counsel for writ petitioner.

6. List after four weeks.

7. List on 13.12.2021."

2. Today, Ms.B.B.Chandrakala, learned counsel representing the counsel on record on behalf of lone petitioner, Mr.M.Lingadurai, learned Special Government Pleader appearing on behalf of second respondent, Mr.Karthikeyan, learned counsel representing Mr.K.K.Senthil, learned Standing Counsel for Tamil Nadu Wakf Board on behalf of respondent Nos.1 and 3 and Ms.M.Viji, learned counsel representing the counsel on record for fourth respondent [private respondent] are before me.



3. Interestingly, learned counsel for petitioner as well as learned counsel for fourth respondent [private respondent] report no instructions. The stated positions of the petitioner and the fourth respondent are recorded.

4. Captioned main writ petition pertains to a public wakf which goes by the name of 'Mohideen Andavar Jumma Pallivasal situate in Mallipattinam, Pattukottai Taluk, Thanjavur District' [hereinafter 'said wakf' for the sake of convenience and clarity].

5. A careful perusal of the case file brings to light that the captioned matter pertains to election of office bearers for administration of said Wakf for the period from 12.04.2015 to 11.04.2018. This Court is informed that the period has since elapsed.

6. Be that as it may, prayer in the captioned writ petition is for a directive qua the fourth respondent under Section 68(3) of the Wakf Act, 1953, [hereinafter 'said Act' for the sake of convenience and clarity].

7. Section 68 of the said Act talks about the duty of mutawalli or committee to deliver possession of records, etc., and Sub-Section 3 therein specifically deals with the action that can be initiated if a mutawalli or any member removed from a committee, omits or fails to deliver charge and possession of the records of a public wakf.

8. In the case on hand, in the light of the trajectory the matter has taken, more particularly, in the light of the petitioner and the fourth respondent [private respondent] reporting no instructions, taking into account the obtaining position that the period has also elapsed, it is desirable that the captioned half a decade old writ petition is not kept pending any more. To be noted, the captioned main writ petition was filed on 08.08.2016 and it is more than half a decade old now in this Court.

9. It is made clear that all rights of the Wakf board under Section 68 or any other provision of the said Act will stand preserved qua the said Wakf as it is a public Wakf.

10. With the above observations, captioned main writ petition is disposed of as closed. Though obvious, it is made clear that I have not expressed any view or opinion on the merits of the matter in this order. There shall be no order as to costs.

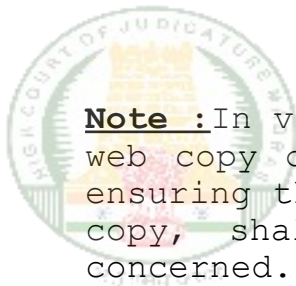
Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

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.

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To

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- 2.The Revenue Divisional Officer,
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Dhivan Nagar,
Thanjavur-614 001.

+1 CC to M/s.K.K.SENTHIL, Advocate (SR-38446[F] dated 13/12/2021)

+1 CC to M/s.P.JESSI JEEVA PRIYA, Advocate (SR-38520[F]
dated 14/12/2021)

+1 CC to M/s.SPL GP (SR-38575[F] dated 14/12/2021)

W.P(MD)No.4872 of 2016

13.12.2021

DTS (CO)

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