



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2022

CORAM :

THE HON'BLE MR. JUSTICE T. RAJA

AND

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P. No.4395 of 2022

and

W.M.P.Nos.4526 & 4527 of 2022

A.Jahir Hussain

... Petitioner

Vs.

1.The Tamil Nadu Waqf Board,
Represented by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.

2.The Commissioner,
Villupuram Municipality,
Villupuram.

3.The Assistant Engineer,
Tamil Nadu Electricity Board,
14/5, 4th Cross Street,
East Shanmugapuram Colony,
Villupuram.

4.The Inspector,
West Police Station,
Villupuram.

5.S.Sundari

6.A.Ayesha

7.N.Iqbal

8.B.Jaffer Ali

9.K.Aarifa

10.S.Basha

11.G.Senthil Kumar

12.S.Selvam

13.Kalaivasan

14.Sheik Allah Baksh

15.Poovarasan

16.Hussain

17.Balkis Banu

18.Darvesh

19.Allah Baksh

... Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 2nd respondent to stop and demolish the unauthorised construction put up by the respondents 5 to 12 as per proceedings dated 03.08.2021 in Na. Ka. No. 1680 / 2017 / F2 and further direct the 2nd respondent to take action as against respondents 13 to 19 in accordance with law.

For Petitioner : Mrs.A.Ajimath Begum

For R1 : Mr.Haja Mohideen Gisthi
Standing Counsel (Waqf Board)

For R2 : Mr.P.Srinivas, Standing Counsel

For R3 : Mr.L.Jaivenkatesh
Standing Counsel (TNEB)

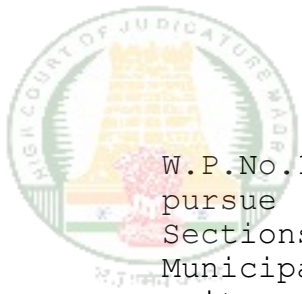
For R4 : Mr.Karthik Jegannathan
Government Advocate

O R D E R

(Order of the Court was made by T.RAJA, J.)

Mr.A.Jahir Hussain, S/o.Abu Backer, residing at No.31/15, Singara Thoppu, Villupuram, claiming to be the President of Abesha Thaikka Waqf, which is notified by the State Government of Tamil Nadu as a Public Waqf, registered under Section 36 of the Waqf Act, 1995, has come to this Court for issuance of a Writ of Mandamus under Article 226 of the Constitution of India to direct the Commissioner of Villupuram Municipality, the 2nd respondent herein, to stop and demolish the unauthorised construction put up by the respondents 5 to 12 as per the proceedings, dated 03.08.2021, in Na.Ka.No.1680/2017/F2 and for a further direction to the 2nd respondent to take appropriate action against the other respondents in accordance with law.

2.Learned counsel appearing for the petitioner would submit that the petitioner, being the President of Abesha Thaikka Waqf, nominated by the State Government of Tamil Nadu, being under the supervisory control of the Tamil Nadu Waqf Board, is dedicated with huge extent of property in S.Nos.347/1 to 347/5, 350/1 to 350/28, 536/1 and 536/2, measuring an extent of 8.76 Acres in Vandimedu, Abesha Thaikka, Villupuram, Villupuram District. But these properties are encroached by the third parties. Therefore, in order to stop the illegal encroachments and registration, objection has been given to the Registration Department not to alienate the Waqf property. In this regard, a writ petition in W.P.No.17524 of 2020 was filed and interim order has been granted by this Court. On an earlier occasion, as against the illegal occupants who made unauthorised construction over the Waqf property, this Court, by order dated 26.07.2017 in



W.P.No.19100 of 2017, also directed the 2nd respondent to pursue further action pursuant to the notice issued under Sections 216(1) and (2) of the Tamil Nadu District Municipalities Act, 1920, in accordance with law. However, in spite of the above directions and supervision undertaken by the petitioner and the Waqf Board, the respondents 5 to 19 have started putting up their illegal construction without obtaining planning permission from the 2nd respondent. Therefore, a representation dated 19.02.2021 was given, requesting to take action against the respondents 5 to 19 as they are proceeding with the illegal construction over the Waqf property. But no action is taken. Therefore, the petitioner has come to this Court.

3.Mr.Haja Mohideen Gisthi, learned counsel appearing for the Waqf Board, also supporting the stand taken by the petitioner, stated that a letter has also been sent to the Tahsildar, Commissioner and the Tamil Nadu Electricity Board, on 08.01.2022, requesting all the authorities not to give electricity service connection by the Electricity Board and not to grant any planning permission by the planning authorities. Now, the 2nd respondent has to take action.

4.Mr.P.Srinivas, learned counsel taking notice for the 2nd respondent, submitted that, show cause notice had already been issued to the respondents 5 to 19, calling upon them to give an explanation as to why their illegal construction should not be demolished and why action should not be taken for putting up illegal construction. He further submitted that further action is also to be taken shortly.

5.Since the 2nd respondent has already initiated action, we dispose of this writ petition giving direction to the 2nd respondent to proceed against the illegal construction, if any, put up by the respondents 5 to 19. No costs. Consequently, connected miscellaneous petitions are closed.

6.Since the learned counsel for the petitioner has brought to the notice of this Court by showing the photographs of illegal construction put up by the respondents 5 to 19, they are hereby injuncted not to put up any more construction in the property belonging to the Waqf, without obtaining appropriate permission from the Waqf Board. This order will not apply if permission has already been granted by the Waqf Board.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar



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To

1. The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.
2. The Commissioner,
Villupuram Municipality,
Villupuram.
3. The Assistant Engineer,
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14/5, 4th Cross Street,
East Shanmugapuram Colony,
Villupuram.
4. The Inspector,
West Police Station,
Villupuram.

+lcc to M/s.A.Ajimath Begum, Advocate SR. No.14480
+lcc to Mr.S.Haja Mohideen Gisthi, Advocate SR. No.15567
(17/03/2022)
+lcc Mr.L.Jaivenkatesh, Advocate SR. No.14972 (17/03/2022)
+lcc to Government Pleader SR. Nos.15538, 15022 (17/03/2022)

W.P. No.4395 of 2022

SJ (CO)
PR (04/03/2022)