



W.P.No.16361 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM

THE HON'BLE **MR.JUSTICE C.SARAVANAN**

W.P.No.16361 of 2022

and

W.M.P.Nos.15674 & 15675 of 2022

1.S.H.Junaid

2.J.Mohamed Mubarak

... Petitioners

Vs.

1.The State of Tamil Nadu,
Represented by its Secretary,
Land Administration Department,
Fort St. George,
Secretariat, Chennai - 600 009.

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

3.The Chief Executive Officer,
The Tamil Nadu Waqf Board,
No.1, Jaffer Serang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.



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4.I.Junaaid Baghdhadhi

5.S.Sulthan Abdul Khader

6.S.Noordheen Hussain

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent order dated 09.11.2021 made in Se.Mu.Aanai.9477/Aa10/2020/Kada in the resolution of the second respondent dated 27.10.2021 made in Item No.110/21 in Na.Ka.No.9477/Aa10/2020/Kada, to quash the same and to consequently direct the Tamil Nadu Waqf Tribunal, Chennai, to dispose of O.S.No.20 of 2021 on its own merits and in accordance with law, within the stipulated time.

For Petitioners : Mr.M.N.S.Mohamed Habeeb Raja

For Respondents :

For R1 : Mr.M.Shahjahan
Special Government Pleader

For R2 & R3 : Mr.Mohammed Fayaz Ali

ORDER

Mr.M.Shahjahan, learned Special Government Pleader takes notice on behalf of the first respondent and Mr.Mohammed Fayaz Ali, learned counsel takes notice on behalf of the second and third respondents.



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WEB COPY 2. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Special Government Pleader for the first respondent and the learned counsel for the second and third respondents.

3. The petitioner has filed this writ petition for a Certiorarified Mandamus, to quash the impugned order dated 27.10.2021, passed by the second respondent appointing the fourth, fifth and sixth respondents as Joint Muthavallis.

4. It is the specific case of the petitioner that the petitioners have filed a suit for permanent injunction in O.S.No.20 of 2021, before the Tamil Nadu Waqf Tribunal at Chennai, wherein, the petitioners is seeking a prayer to restrain the second respondent herein along with the fifth respondent, from interfering with the petitioner's peaceful possession and enjoyment of the Schedule 'B' Suit Property by virtue of the grant of Ryotwari Patta in respect of Schedule 'B' Suit Property comprised in R.P.No.3092/1/A1/CHI/70 in Survey No.24/9 measuring an extent of 95 cents situated in Parangipettai, Cuddalore District. It is submitted that the said suit is still pending.



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5. It is submitted that a notice was also issued under Section 89 of the Wakf Act, 1995 in connection with the institution of the aforesaid proceedings before the Tamil Nadu Waqf Tribunal. It is therefore submitted that appointment of fourth, fifth and sixth respondents all of a sudden, without due notice to the petitioner is liable to be interfered.

6. The learned Special Government Pleader for the first respondent would submit that admittedly about 4 cents of land in question is Dharga and therefore it is the Waqf, comes within the purview of the second respondent under the Waqf Act, 1995. It is submitted that the petitioners have not obtained any interim injunction from the Tamil Nadu Waqf Tribunal in O.S.No.20 of 2021 and therefore there is no merits in the present writ petition. It is further submitted that the impugned order has been passed in accordance with the provisions of the Waqf Act, 1995 and the prevailing proforma.

7. It is the Waqf Tribunal which is vested with the powers under the Waqf Act, to decide the question as to whether the powers exercised has been



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made in accordance with the provisions of the Waqf Act or not. Prima facie, it appears the dispute can be resolved by the Waqf Tribunal.

8. This Writ Petition is disposed at the time of admission, by dispensing with notice and counter of the private respondents, by giving liberty to the petitioner to file an application/petition under Section 83 of the Wakf Act, 1995, before the Waqf Tribunal, within a period of thirty days from the date of receipt of a copy of this order.

9. The petitioner is also given liberty to file an interim application/petition for grant of any interim relief which the petitioner may seek against the impugned order before the Waqf Tribunal.

10. However, considering the fact that the impugned order has been passed without notice to the petitioner, the respondents are directed to maintain the status quo for a period of thirty days. Meanwhile, the petitioner should file appropriate application/petition for interim relief before the Waqf Tribunal, failing which, the official respondents are entitled to act in pursuance of the impugned order.



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WEB COPY 11. It is expected that the Waqf Tribunal will also take up the interim application/petition, if any, to be filed by the petitioner under Section 83 of the Waqf Act, 1995, before the expiry of thirty days. The Waqf Tribunal shall also dispose O.S.No.20 of 2021 along with the proposed appeal of the petitioner within a reasonable period of time.

12. This Writ Petition stands disposed of with the above observations.

No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

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Index : Yes/No
Internet : Yes/No
Speaking/Non-Speaking Order

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