



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2022

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN
AND
THE HON'BLE MRS.JUSTICE S.ANANTHI

W.P.NO.11983 OF 2022
AND
W.M.P.NO.11404 OF 2022

R.Syed Inayathulla

.... Petitioner

Vs

1. The Chairman
Tamil Nadu Wakf Board
No.1, Jaffer Sherong Street
Vallal Seethakathi Nagar
Chennai - 600 001.
2. The Executive Officer
Vilapakkam Town Panchayat
Arcot Road, Vilapakkam
Arcot Taluk - 632 521
Ranipet District.
3. The Assistant Engineer
TANGEDCO, O&M
Vilapakkam,
No.25, Madalayam Street,
Arcot Taluk - 632 521
Ranipet District.
4. Syed Rahamathullah

.... Respondents

Prayer :

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent in Impugned Notice in Na.Ka.No.56/2022 dated 14.03.2022 and quash the same and consequently direct the 2nd respondent to consider the petitioner's representation dated 16.03.2022 forthwith and pass necessary orders thereon.



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For Petitioner :Mr.A.Ilayaperumal
For Respondents :Mr.Haja Mohideen Gisthi - for R1
Mr.M.Bindran
Additional Government Pleader - for R2
Mr.Jai Venkatesh - for R3

O R D E R

(Order of the Court was made by R.MAHADEVAN, J.)

The prayer made in this writ petition is to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent relating to the Notice in Na.Ka.No.56/2022 dated 14.03.2022, quash the same and consequently, direct the 2nd respondent to consider the petitioner's representation dated 16.03.2022 forthwith and pass necessary orders thereon.

2.It is the case of the petitioner that Hazarath Syed Sha Meeran Wali Hussaini Qadri Dargah Masjid and Burial Ground Wakf is a notified Wakf vide G.S.No.682/NA and is under the control of the Tamil Nadu Wakf Board. It owns the property in S.Nos.858A, 858B, 871/A, 871/B, 860/1 measuring to an extent of 114 acres in Panchapandavarmalai, Arcot Taluk, Ranipet District. Originally, the petitioner's ancestor viz., Syed Sha Meeran Wali (Khadri) was a Muthavalli for the subject Wakf. According to the petitioner, as per the Wakf Proforma Column No.9 and Genealogy, he is entitled to become the hereditary Muthavalli for the subject Wakf, as his father's brother's children have already died and his sisters have no objections for the same and hence, he approached the respondent authorities by way of representation dated 10.03.2022 and requested them to appoint him as Muthavalli for the subject wakf, however the said request was not considered till date.

3.The petitioner further averred that the residential premises in S.No.871B, 2nd Street, Vilapakkam Village, Panchapandavar Hills, Ranipet District originally belongs to the subject wakf and the fourth respondent is the joint Muthavalli for the same. Since the said property was in dilapidated condition, the petitioner applied for renovation of the same on 07.07.2021 and 19.01.2021 to the Muthavalli of the subject Wakf viz., Syed Usman, who in turn granted permission to him, on 23.02.2022. After paying necessary fee for the same to the Hereditary Muthavalli, the petitioner made renovation of the said premises and has been in possession and enjoyment of the same, till date. While so, the fourth respondent, with an ulterior motive, filed WP.No.4514 of 2022, which was disposed of by this court, by order dated 02.03.2022. As per the said order,



the second respondent issued a notice dated 14.03.2022 in Na.Ka.No.56/2022, which is impugned herein, calling upon the petitioner to demolish the building as if the same is an unauthorised construction. Upon receipt of the same, the petitioner made a representation on 16.03.2022, which is pending consideration. Apprehending coercive steps at the hands of the second respondent, the petitioner has preferred this writ petition with the aforesaid prayer.

4.The learned counsel for the petitioner submitted that after obtaining necessary permission from the Muthavalli of the subject wakf, the petitioner has made renovation of the building which was in dilapidated condition and there is no unauthorised construction as alleged in the notice impugned herein. It is further submitted that the fourth respondent filed WP.No.4514 of 2022 and obtained an order, based on which, the demolition notice dated 14.03.2022 came to be issued by the second respondent to the petitioner and hence, the act of the fourth respondent is arbitrary, illegal and in violation of the principles of natural justice. It is also submitted that upon receipt of the notice dated 14.03.2022, the petitioner submitted his objections by way of representation dated 16.03.2022 to the second respondent and the same is kept pending and hence, it would suffice, if an opportunity of personal hearing is granted to the petitioner, enabling him to defend his case.

5.Mr.Haja Mohideen Gisthi, learned Standing Counsel takes notice for the first respondent, Mr.M.Bindran, learned Additional Government Pleader takes notice for the second respondent and Mr.Jai Venkatesh, learned Standing Counsel takes notice for the third respondent. According to the learned counsel, what was impugned herein is the notice issued by the second respondent calling upon the petitioner to submit his explanation for the alleged unauthorised construction and the respondent authorities would proceed further, only after following due process of law and also the order of this Court dated 02.03.2022 in WP.No.4514 of 2022. It is also submitted that the petitioner's representation dated 16.03.2022 would be taken into consideration and appropriate orders be passed, on merits, within a time frame to be stipulated by this court.

6.Taking note of the facts and circumstances of the case and having regard to the submissions made by the learned counsel for the petitioner, more particularly, that the challenge made in this writ petition is only the notice dated 14.03.2022 issued by the second respondent, to which, the petitioner has already made representation dated 16.03.2022 and the same is pending, this court, without going into the merits of the case, directs the respondent authorities to consider the said representation of the petitioner dated 16.03.2022 and pass appropriate orders, on



merits and in accordance with law and also taking into consideration the order of this Court dated 02.03.2022 in WP.No.4514 of 2022, after affording an opportunity of personal hearing to the petitioner, fourth respondent as well as any other interested parties.

7. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Vacation Officer

//True Copy//

Sub Assistant Registrar

KST/RPP

To

1. The Chairman
Tamil Nadu Wakf Board
No.1, Jaffer Sherong Street
Vallal Seethakathi Nagar
Chennai - 600 001.
2. The Executive Officer
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3. The Assistant Engineer
TANGEDCO O&M
Vilapakkam, No.25, Madalayam
Street, Arcot Taluk - 632 521
Ranipet District.

+1cc to Mr.A.Ilayaperumal, Advocate, S.R.No.31073

W.P.No.11983 of 2022

JPL (CO)
PM/25/05/2022