



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.01.2022

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.11865 of 2021

The Ameerunnisa Begum Sahibas Endowments
Rep by its President
165/76, Barathi Salai, Triplicane,
Chennai.5

... Petitioner

Versus

1.The Deputy Commissioner of Police Mylapore,
Office of the Deputy Commissioner of Police,
Mylapore, Chennai.4.

2.The Assistant Commissioner of Police,
Royapettah Police Station, Chennai.

3.The Inspector of Police,
E-2 Police Station, Royapettah,
Chennai.

4.Sahib Basha.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondents to provide police protection to the Ameerunnisa Begum Sahibas Endowment burial ground at No.22, Peters Road, Royapettah, Chennai.14 as sought vide representation dated 20/4/21 by the Wakf Board and 1/7/21 by the petitioner.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondents: Mr.E.Raj Thilak
Additional Public Prosecutor
For R1 to R3

O R D E R

This Criminal Original Petition has been filed to direct the respondents to provide Police protection to the Ameerunnisa Begum Sahibas Endowment burial ground at No.22, Peters Road, Royapettah, Chennai.14, as sought, vide representation dated 20/4/21 by the Wakf Board and 1/7/21 by the petitioner.



2.The petitioner/Trustee of Ameerunnisa Begum Sahibas Endowments had lodged a complaint to the first respondent/Deputy Commissioner of Police, Mylapore complaining that one Sahib Basha, the 4th respondent herein demanded huge amounts for burying the bodies in the burial ground, leaving public and relatives of the dead in a state of shock and loss, that too, in the period of pandemic. The conduct of the Sahib Basha was found to be inappropriate and a decision was taken by the Management Committee of the Ameerunnisa Begum Sahibas Endowments to terminate his employment. Thereafter, he was terminated from service by the petitioner Endowment, vide proceedings dated 15.03.2021. The Sahib Basha sent an apology letter to the Ameerunnisa Begum Sahibas Endowments on 18.03.2021. A new person in the name of Nizamuddin was employed to take care of the burial of the dead bodies. The R4/Sahib Basha is creating obstruction through his brothers and rowdy elements engaged by him. Since the R4/Sahib Basha was employed for quite some time, with his familiarity, he used muscle power and obstructed the burials without his payments. The 1st respondent Police, though received a complaint, no action has been taken. The Executive Officer of the Wakf Board had also written a letter to the R1/Deputy Commissioner of Police, Mylapore, vide his communication in R.C.No.10557/06/B6/Che dated 20.04.2021 and recorded the termination of R4/Sahib Basha from the service of the Wakf Management. Further, the Superintendent of Wakfs, Chennai, conducted enquiry and confirmed the illegal activities of the R4/Sahib Basha as well as confirmed his termination by Wakf Board and he has no locus-standi to continue as Makkandar and his obstruction during the burial is an unlawful act. In view of the same, the petitioner sought for Police protection.

3. The learned Additional Public Prosecutor appearing for the respondents 1 to 3 submitted that he had filed a counter affidavit stating that the petitioner and the fourth respondent/Sahib Basha were called for enquiry on 29.06.2021. Both of them failed to appear for the enquiry and it was also found that the dispute is regarding claim over rights, which has to be adjudicated by a competent Civil Court, the representation dated 01.07.2021 for Police protection can be considered.

4. On the submissions made by either side and on a perusal of the materials available on record, it is seen from the typed set of papers submitted by the petitioner that the Chief Executive Officer/Estate Officer, Tamil Nadu Wakf Board, had given a report dated 20.04.2021 in R.C.No.10557/06/B6/Che. From the report, it is seen that the enquiry has been conducted by the Superintendent of Wakfs on the complaint of the petitioner. The petitioner is a Trustee of the Ameerunnisa Begum Sahibas Endowments, which is not in dispute. The burial ground belong



to the Ameerunnisa Begum Sahibas Endowments is not in dispute. The property governed by Wakf Board is not in dispute. The termination of Sahib Basha is also not in dispute. The claim of the 4th respondent/Sahib Basha over his right is a separate issue which has to be decided only by the Wakf Board, followed by other proceedings, the questioning of termination will not give any right to Sahib Basha to interfere in the burial of the bodies in the burial ground, which is a solemn act to be conducted in peace and empathy, unnecessary obstruction, distraction, uneasy calm to be avoided.

5. In view of the above discussion, the 1st respondent/ Deputy Commissioner of Police, Mylapore, is directed to give appropriate instructions and provide Police protection to the Ameerunnisa Begum Sahibas Endowments and its present employee Nizamuddin to carry on his burial work in the burial ground without any obstruction or intrusion from the 4th respondent/Sahib Basha, if needed, coercive action to be taken in accordance with law, if there is any obstruction.

6. With the above directions, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

vkr/mdl
To

1.The Deputy Commissioner of Police Mylapore,
Office of the Deputy Commissioner of Police,
Mylapore, Chennai.4.

2.The Assistant Commissioner of Police,
Royapettah Police Station, Chennai.

3.The Inspector of Police,
E-2 Police Station, Royapettah, Chennai.

4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.N.A.Nissar Ahmed, Advocate Sr.5978

CRL.O.P.No.11865 of 2021

jpII[co]
srg 04/02/2022