



W.P.No.16372 of 2021

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 09.12.2022

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**  
and

**THE HONOURABLE MRS. JUSTICE R.HEMALATHA**

Writ Petition No.16372 of 2021

R.Hassan Ali Akbar

.. Petitioner

Vs.

1.The District Collector  
Sathuvachari  
Vellore.

2.The Commissioner  
Arcot Municipality  
Arcot, Vellore.

3.The Tamil Nadu Wakf Board  
Represented by its Chief Executive Officer  
No.1, Jaffer Syrang street  
Vallal Sethakathi Nagar  
Chennai-1.

4.A.V.Nagaraj

5.Settu

6.Rahimunissa Begum



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7. The District Collector  
Ranipet District.

.. Respondents

WEB COPY

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the 2<sup>nd</sup> respondent to demolish the unauthorised construction put up by respondents 4 to 6 at Door No.43A, Anna salai, Arcot property comprised in T.S.No.31/1, 34, Block 4 Ward C as per Sections 339 and 340 of the Tamil Nadu District Municipalities Act pursuant to the proceedings of the 2<sup>nd</sup> respondent dated 17.02.2021 and made in AAK.No.1/2021/TPI as sought vide representation dated 22.3.2021.

|                |                        |
|----------------|------------------------|
| For Petitioner | : Mr.N.A.Nissar Ahmed  |
| For R1 & R7    | : Ms.R.L.Karthika      |
|                | Government Advocate    |
| For R2         | : Mr.B.Anand           |
| For R3         | : No appearance        |
| For R4         | : Mr.B.Sundarapandiyan |
| For R5         | : Mr.R.Rajarajan       |

### **ORDER**

(Order of the Court was delivered by V.M.VELUMANI,J.)

Writ Petition is filed for a direction to the 2<sup>nd</sup> respondent to demolish the unauthorised construction put up by the respondents 4 to 6



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at Door No.43A, Anna salai, Arcot property comprised in T.S.No.31/1, 34, Block 4 Ward C as per Sections 339 and 340 of the Tamil Nadu District Municipalities Act, pursuant to the proceedings of the 2<sup>nd</sup> respondent dated 17.02.2021 and made in AAK.No.1/2021/TPI as sought vide representation dated 22.03.2021.

2.Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents 1 & 7 and learned counsel appearing for the respondents 2, 4 and 5. Though notice has been served on the 3<sup>rd</sup> respondent and their name is printed in the cause list, there is no representation for them either in person or through counsel.

3.According to the petitioner, he is Mutawalli of Late Arcot Mohammed Khader Wakf Estate and claims that property belongs to said wakf. The 4<sup>th</sup> respondent created fake document and the same was cancelled by the District Registrar, Vellore. The 4<sup>th</sup> respondent filed appeal in A.A.No.12/2019 before the Tamil Nadu Wakf Tribunal, Chennai and the same is pending now. While so, the respondents 5 and 6 have put up unauthorised construction in the wakf property. Hence, the



petitioner sent a representation dated 15.11.2020 to the 2<sup>nd</sup> respondent to remove the unauthorised construction. On receiving the said representation, the 2<sup>nd</sup> respondent passed provisional order dated 21.01.2021 under Section 216(1)(2) of the Tamil Nadu District Municipalities Act directing the respondents 4 to 6 to demolish the unauthorised construction within seven days from the date of receipt of the provisional order. The respondents 4 to 6 have not given any explanation and hence, the 2<sup>nd</sup> respondent passed final order by the proceedings dated 17.02.2021 under Section 216(3) of the Tamil Nadu District Municipalities Act, confirming the provisional order. The 2<sup>nd</sup> respondent after passing final order, has not proceeded further. Hence, the petitioner has come out with the present writ petition for the above stated relief.

4.The learned counsel appearing for the 2<sup>nd</sup> respondent filed counter affidavit and submitted that in view of pendency of the appeal before the Wakf Tribunal, the 2<sup>nd</sup> respondent has not proceeded further.

5.The learned counsel appearing for the 4<sup>th</sup> respondent submitted that the First Appeal filed by the 4<sup>th</sup> respondent is pending before the



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Wakf Tribunal. While so, the respondents 5 and 6 have encroached the property, put up unauthorised construction and the 4<sup>th</sup> respondent has not put up any construction.

6.Considering the above submissions of the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents 1 & 7 and the learned counsel appearing for the respondents 2, 4 and 5 and order of the 2<sup>nd</sup> respondent dated 17.02.2021 passed under Section 216(3) of the Tamil Nadu District Municipalities Act, without deciding the issue of ownership, the 2<sup>nd</sup> respondent is directed to take further action as per the final order dated 17.02.2021 passed under Section 216(3) of the Tamil Nadu District Municipalities Act, in accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of this order.

7.With the above directions, the writ petition is disposed of. No costs.

**(V.M.V., J) (R.H., J)**  
**09.12.2022**  
**(2/2)**

Index : Yes / No  
Internet : Yes / No  
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**V.M.VELUMANI,J.  
and  
R.HEMALATHA,J.**

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To

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