



W.P.No.24961 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2022

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.24961 of 2022
and W.M.P.Nos.23897 & 23899 of 2022

S.Mohammed Akbar

... Petitioner

Vs.

1.The Chairman,
Tamil Nadu Wakf Board,
No.1, Jabbar Sirang Road,
Vallal Seetha Kadhi Nagar,
Chennai-1.

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jabbar Sirang Road,
Vallal Seetha Kadhi Nagar,
Chennai-1.

3.The Superintendent of Wakf,
Wakf Board,
Cuddalore Circle,
No.152, Gandhi Road, Panruti-607 106.

4.M.Kasnafar Ali Khan

[R4 impleaded vide order dated 25.11.2022
made in WMP.No.31081/2022 in WP.No.24961/2022]

... Respondents



W.P.No.24961 of 2022

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the entire records relating to the impugned notice issued by the 3rd respondent in his proceedings No.G.S.67&68/S.A./Va.Ka/Kada/2022, dated 31.08.2022 published in Dinathanthi, dated 31.08.2022 and quash the same.

For Petitioner : Mr.C.Prakasam

For R1, R2 & R3 : Mr.R.Abdul Mubeen

For R4 : Mr.N.A.Nissar Ahmed

ORDER

The Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the entire records relating to the impugned notice issued by the 3rd respondent in his proceedings No.G.S.67 & 68/S.A./Va.Ka/Kada/2022, dated 31.08.2022 published in Dinathanthi, dated 31.08.2022 and quash the same.

2.It is the case of the writ petitioner that, the subject property was in enjoyment of his great grand father. With regard to the lands situated in S.No.71/1 to the extent of 2.35 acres, S.No.84.9 to the extent of 2.35 acres,



W.P.No.24961 of 2022

S.No.84/10 to the extent of 0.92, S.No.88 to the extent of 11.12 acres and S.No.147/12 to the extent of 0.58 acres in Udayarkudi Village, Kattumannarkoil Taluk, Cuddalore District. A scheme has been framed by the learned Principal Sub Judge, Cuddalore in A.S.No.5 of 1956 and as per the scheme, the petitioner shall be elected as one of the Trustees. Whereas, now the impugned notice has been issued, calling for the applications from the public for the appointment of Wakf Board Trustees. According to the writ petitioner, he is alone is the descendant of the original defendant and calling for the applications is against the scheme decree. Hence, the notification is sought to be quashed.

3.Counter has been filed by the 3rd respondent. The scheme decree reads as follows;

“One of these Trustees should be the present defendant for his lifetime and after him a competent male descendant of his will be one of the five trustees. If the defendant's family does not supply a suitable person competent to hold the office of a trustee, then all the five persons will have to be appointed from among the worshippers in the mosque. The appointing



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authority for all the Trustees will be the Court of the Subordinate Judge of Cuddalore. Four other Trustees to be immediately appointed from among the Muslim worshippers in the said mosque. The persons so appointed should be above the age of 25 and should not be undischarged insolvents or convicted for any offence involving moral turpitude. They should hold office for a period of five years. The defendant as well as the four others appointed by the Court would elect from amongst themselves by rotation a managing Trustee. Such Managing Trustee will hold office for a period of two years by turn. The first Managing Trustee will hold office for a period of two years by turn. The first Managing Trustee will be the defendant appellant and he will hold office for only a period of two years. Thereafter at a meeting of all the five trustees convened for the purpose a fresh Managing Trustee will be appointed who in turn will hold office for a period of two years, so that the office of the Managing Trustee will be held in rotation by all the five members of the Board at a meeting to be held after due notice to all the members of the Board. The Managing Trustee will cause notices of the meeting to be served upon the rest of the Trustees and arrange for the election of the Managing Trustee from among the Trustees once in every two years. The outgoing Managing Trustee shall be eligible for re-election. This system of management by a Board of five Trustee



W.P.No.24961 of 2022

WEB COPY

shall be eligible for re-election. This system of management vesting in one of them as Managing Trustee, accountable to the rest of the Board of Trustees, in my opinion, would secure a better administration of the mosque and its properties”.

“5. There will always be, subject to availability, a male member of the family of the defendant by lineal descent on the Board of Trustees. Such a member will also be appointed by the Court for a term of five years from among the family of the defendant after the lifetime of the present defendant. In case no suitable member is available from among the family of the defendant to be appointed as one of the five trustee, the court will appoint a suitable person from among the Muslim worshippers in the mosque for this place as well and he shall hold office for a term of five years”.

4. According to the scheme decree, the Wakf Board has every right and authority to choose a suitable person from among the worshippers of the mosque, in the event there is no suitable person from among the family of the Wakf competent to hold the office of the trustee to the mosque wakf.

5. It is the further case of the respondents that the petitioner has



W.P.No.24961 of 2022

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treated the properties as his personal properties and orders for changing the revenue records had also been obtained by the petitioner suppressing the fact that the properties are Wakf properties. Hence, election cannot be stalled at this stage.

6.I perused the entire materials. As the scheme decree as referred above provide the manner in which Trustees to be appointed, the same shall be followed by the authorities while electing Trustees. Merely because the applications are invited for the appointment of Trustees that cannot be the ground for stalling the entire process. At the most, the respondents will take decision based on the scheme decree and its directions.

7.Such view of the matter, election cannot be stalled. The respondents are directed to issue a fresh notification for appointing Trustees as per scheme decree. This Writ Petition stands dismissed accordingly. Consequently, the connected miscellaneous petitions are closed. No costs.

09.12.2022



W.P.No.24961 of 2022

WEB COPY

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To

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WEB COPY



W.P.No.24961 of 2022

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