

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.26402 of 2017
And
W.M.P.No.28065 of 2017

M.Javid Ali

... Petitioner

Vs.

- 1.The District Collector,
District Collectorate Office,
Villupuram District.
- 2.District Revenue Officer,
District Collectorate Office Campus,
Villupuram.
- 3.The Tahsildar,
Tahsildhar Office,
Gingee,
Villupuram District.
- 4.The Chief Executive Officer,
Tamilnadu Wakf Board,
Chennai - 1.
- 5.The Inspector of Wakfs,
Villupuram & Cuddalore District,
No.512, Gandhi Street,
Panruti,
Villupuram District.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling the records of the third respondent vide proceeding in Muu.Mu.Aa3/1566/2017 Dated: 30.08.2017 and quash the same and also direct the third to survey and demarcate the Wakf Properties situated in S.No.39/1 to the extent of 5.09.5 Ares, S.No.39/3 to the extent of 3.11.0 Ares, S.No.23/1 to the extent of 4.21.0 ares, S.No.31/2 to the extent 0.53.0 Ares in Palapattu

Village, Gingee Taluk and in S.No.79 to the extent of 5.77.0 Ares in Sirukambur Village, Gingee Taluk and also in S.No.53 to the extent of 7.45.5 Ares in Krishnapuram Village, Gingee Taluk.

For Petitioner : Mr.G.Mohammed Aseef
For Respondents : Mr.G.Krishna Raja
Additional Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the third respondent vide proceeding in Muu.Mu.Aa3/1566/2017 Dated: 30.08.2017 and to quash the same and also to direct the third respondent to survey and demarcate the Wakf Properties situated in S.No.39/1 to the extent of 5.09.5 Ares, S.No.39/3 to the extent of 3.11.0 Ares, S.No.23/1 to the extent of 4.21.0 ares, S.No.31/2 to the extent 0.53.0 Ares in Palapattu Village, Gingee Taluk and in S.No.79 to the extent of 5.77.0 Ares in Sirukambur Village, Gingee Taluk and also in S.No.53 to the extent of 7.45.5 Ares in Krishnapuram Village, Gingee Taluk.

2.The case of the petitioner is that the petitioner is the Hereditary Muthawalli of Sunny Dharga Wakfs explicitly Hasarath Syed Musthafa Sha Awlia Dharga, Sittampoondi, Gingee Taluk and Hasarath Kaja Pathesha Mohammed Dharga, Sirukadambur Village, Gingee Taluk. According to the petitioner, the subject properties belong to the Wakf and hence, the petitioner made application to the third respondent for surveying the properties and since there was no action, filed W.P.No.43959 of 2016 before this Court and pursuant to the order of this Court dated 22.12.2016 made in the said writ petition, the petitioner once again made application to the third respondent and thereafter, the impugned order came to be issued. Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted that as per the Tamil Nadu Survey and Boundaries Act, the third respondent has to direct the Town Surveyor to measure the property, however, the third respondent has rejected the petitioner's request on the ground that there is property dispute and law and order problem which is un-sustainable one.

4.The learned Additional Government Pleader submitted that if any survey is being conducted in the property there is every possibility of communal clash and law and order problem in the locality and hence a peace committee meeting was convened between the petitioner and the persons who are in possession and enjoyment of the properties and based on the documents submitted by both the parties, the third respondent rightly rejected the request of the petitioner.

5. Heard the arguments advanced on either side and perused the materials available on record.

6. Perusal of records reveal that there is civil dispute inbetween the petitioner and the persons who are in possession and enjoyment of the properties and unless the civil dispute is settled, the petitioner's request cannot be considered. However, as against the impugned order, there is effective remedy available to the petitioner before the Revenue Divisional Officer in terms of Section 11 of the Tamil Nadu Survey and Boundaries Act and without exhausting the such remedy, filing writ petition is un-sustainable one.

7. In view of the above, the writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Collector,
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2. District Revenue Officer,
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4. The Chief Executive Officer,
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No. 512, Gandhi Street, Panruti, Villupuram District.

+1 cc to Government Pleader Sr.NO. 37197

W.P.No.26402 of 2017
And W.M.P.No.28065 of 2017

sr II(CO)
A.SK(18/07/2022)