



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.04.2022**

CORAM:

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.P. (MD) No.2964 of 2013
and
M.P. (MD) Nos.1 to 3 of 2013

V.G.Nagarajan

... Petitioner

/vs./

1.The Commissioner of Police,
Trichirapalli City Police,
Subramaniapuram,
Trichy.

2.The Assistant Commissioner of Police
(Law and Order),
Srirangam, Trichy.

3.The Inspector of Police,
Thillainagar Police Station,
Trichy 18.

4.The Chief Executive Officer,
The Tamil Nadu Wakf Board,
Chennai -1.

5.The President,
Executive Committee,
Anar Bagh Dargah and Kabaragthan Wakf,
(Muthulangollai)
Tennur General Bazar,
Tiruchirapalli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the fourth respondent in Na.Ka.No.9403/10/Aa12/Trichy dated 28.05.2010 and the proceedings in Se.Mu.No.8233/10/Aa5/Trichy dated 18.04.2011 and quash the same and consequently restraining the respondents 1 to 4 from interfering with the day to day affairs by harassing the petitioner and his men, agent pending disposal of the Proceedings in Wakf O.S.No.7/2012 on the file of the Principal Subordinate Judge, Trichirapalli.



For Petitioner : Mr.R.Devaraj
For R1 to R3 : Mr.P.Subbaraj
Special Government Pleader
For R4 : Mr.D.S.Haroon Rasheed
For R5 : Mr.S.Anwar Sameem

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ORDER

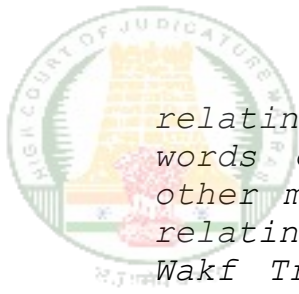
The petitioner has filed this writ petition challenging the impugned communication dated 28.05.2010 of the 4th respondent/the Chief Executive Officer, Tamil Nadu Wakf Board addressed to the Sub Registrar, Trichy to not to register the property in S.F.Nos.806 and 807 measuring an extent of 2.14 acres in Pudhur Village, Trichy Town and the communication of the 4th respondent to the 5th respondent to put up a wall around the property.

2.It is the specific case of the petitioner that the property is an ancestral property and that the petitioner possess the requisite documents to establish that the land belongs to the petitioner. It is submitted that the impugned proceeding has been taken without due notice to the petitioner and therefore there is a violation of principles of natural justice. It is further submitted that as per the Gazette Notification dated 10.12.1958, the extent of property of the 5th respondent Wakf is only about 2.59 sq.mts.,

3.Opposing the prayer, the learned counsel for the 5th respondent submits that there is a typographical mistake in the Gazette Notification as the extent mentioned in the aforesaid notification giving the miniscule detail of the property as 2.5918 sq.fts. That apart, the learned counsel for the 5th respondent submits that as per the *pro forma* and the register of property maintained in the Wakf Board, the extent is 2.14 acres and not 2.5918 sq.fts., in the aforesaid land and therefore, there is no merits in the present writ petition.

4.That apart, the learned counsel for the respondent Wakf submits that there is an embargo under Section 22A of the Registration Act, 1908 and in terms of Section 104A of the Tamil Nadu Wakf Act, where there is a specific restrictions for effecting transfer of Wakf Board. It is submitted that in any event if the petitioner so desires, it is open for the petitioner to approach the Wakf Tribunal in terms of the decision of the Hon'ble Supreme Court in the case of **Board of Wakf, West Bengal and another Vs. Anis Fatma Begum and another** reported in **(2010) 14 Supreme Court Cases 588**. A specific reference was made to paragraph No.10 from the said judgment, which reads as under:-

"10.Thus, the Wakf Tribunal can decide all disputes, questions or other matters relating to a Wakf or Wakf property. The words "any dispute, question or other matters



relating to a Wakf or Wakf property" are, in our opinion, words of very wide connotation. Any dispute, question or other matters whatsoever and in whatever manner which arises relating to a Wakf or Wakf property can be decided by the Wakf Tribunal. The word 'Wakf' has been defined in Section 3 (r) of the Wakf Act, 1995 and hence once the property is found to be a Wakf property as defined in Section 3 (r), then any dispute, question or other matter relating to it should be agitated before the Wakf Tribunal."

5.The learned counsel for the respondent Wakf by way of abundant caution further submits that in any event, the 5th respondent has also filed O.S.No.7 of 2012 before the Principal Subordinate Judge, Trichy, which has been now renumbered as O.A.No.332 of 2021 before the Wakf Tribunal. It is therefore submitted that the prayer sought for by the petitioner in this writ petition has no merits. It is further submitted that the Wakf Tribunal has also granted an order of injunction.

6.I have considered the arguments advanced by the learned counsel for the petitioner, learned counsel for the official respondents and the learned counsel for the respondents 4 and 5.

7.The fact of the matter is that there appears to be a typographical mistake in the Gazette Notification dated 10.12.1958. The extent of 2.5918 sq.ft., being dedicated to the Wakf appears to be highly improbable, as such an extent of property would not have been dedicated. In any event, the 5th respondent has filed a suit before the Wakf Tribunal in O.A.No.332 of 2021. Therefore, the petitioner can participate in the aforesaid proceedings.

8.Considering the above, I do not find any merits in this writ petition. In case, the petitioner succeeds in the aforesaid proceeding, the compound wall, which was sought to be put up by the 5th respondent, shall be demolished by the 5th respondent.

9.The writ petition stands disposed of, in terms of the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD-I)

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/ /2022

Sub Assistant Registrar(CS)



To

1.The Principal Subordinate Judge,
Trichirappalli.

2.The Commissioner of Police,
Trichirapalli City Police,
Subramaniapuram,
Trichy.

3.The Assistant Commissioner of Police
(Law and Order),
Srirangam, Trichy.

4.The Inspector of Police,
Thillainagar Police Station,
Trichy 18.

5.The Chief Executive Officer,
The Tamil Nadu Wakf Board,
Chennai -1.

+1 CC to M/s.SPL.GP. (SR-18939[F] dated 18/04/2022)

+1 CC to M/s.R. DEVARAJ, Advocate (SR-18900[F] dated 18/04/2022)

W.P. (MD) No.2964 of 2013
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