



W.P(MD)No.1150 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.11.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.1150 of 2015

and

M.P(MD)No.1 of 2015

Meenakshisundaram

... Petitioner

Vs.

- 1.The President,
Maravamangalam Village Panchayat,
Maravamangalam, Sivagangai Taluk,
Sivagangai District.
- 2.The Assistant Director of Panchayats,
Sivagangai.
- 3.The Muthawalli,
Muslim Jamath Pallivasal, Maravamangalam,
Sivagangai District.
- 4.The Chief Executive Officer,
Tamil Nadu Wakf Board,
Ramanathapuram Region,
Ramanathapuram.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the proceedings of the impugned order, dated Nil on



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the file of the first respondent cancelling the planning permission of the petitioner and quash the same.

For Petitioner : M/s.G.Prabhu Rajadurai
For R-1 : M/s.J.Gunaseelan Muthiah
For R-2 : M/s.B.Saravanan
Additional Government Pleader
For R-3 : M/s.J.Irfana Fathima
for M/s.Ajmal Associates
For R-4 : M/s.K.K.Senthil

ORDER

The present Writ Petition has been filed challenging an order passed by the first respondent herein, under which, the building plan approval granted to the writ petitioner was cancelled, without any notice to the writ petitioner.

2. According to the learned Counsel for the petitioner, they are residing in the property in dispute for more than fifty years and after obtaining the building plan approval, they have put up construction. The fourth respondent herein claims that the property belongs to them. The learned Counsel for the petitioner submits that the petitioner and thirty others had approached the revenue authorities for grant of patta on the



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basis of their long possession. Since the said request was not considered in time, they have filed W.P(MD)No.7868 of 2007 for a Mandamus, directing the Revenue Divisional Officer, Sivagangai to consider their request and grant patta. When the writ petition came up before this Court, the Hon'ble First Bench was pleased to pass the following order. Paragraph No.7 of the said order is extracted as follows:

"7. Having noted the submission of both the learned Counsel, in our opinion, the ends of justice will be met, if the Chief Executive Officer, Tamil Nadu Wakf Board issues a notice to the petitioner and others. Ajmal Khan, learned Counsel for the Wakf Board states that necessary notice will be issued to the petitioner and others within four weeks from the date of receipt of a copy of this order. Mr.Prabhu Rajadurai, learned Counsel for the petitioner seeks a further time of four weeks to file reply to the notice from the date of receipt of such notice. In our view, both the requests are quite legitimate, and thereafter, considering the material on record and after following the principles of natural justice the Chief Executive Officer, Wakf Board will arrive at his decision. It will be open to the petitioner and others to approach the Wakf Tribunal thereafter against the decision of the Chief Executive Officer in the event it is against them. The decision of the Chief Executive Officer will not be enforced for a further period of eight weeks within which time



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the petitioner and others may approach the Wakf Tribunal for appropriate stay of the order passed by the Chief Executive Officer. In the event the decision of the Wakf Tribunal also goes against the petitioner and others, it will be open to them to have their further remedies, and it will also be open to the Chief Executive Officer to execute his order as confirmed by the Wakf Tribunal through the first respondent - Revenue Divisional Officer, Sivagangai. All the submissions of both the parties will be available to them in all future proceedings hereafter. It is needless to mention that until all these proceedings as contemplated are completed the possession of the petitioner and the others should not be disturbed."

3. The learned Counsel for the petitioner submitted that eviction orders have been passed by the Wakf Board by an order, dated 16.07.2011. The said order of the Wakf Board has been challenged in Wakf O.S.No.6 of 2016 before the Sub Court, Sivagangai. Now the said Wakf O.S.No.6 of 2016 has been transferred to Wakf Tribunal at Chennai and the same is pending. The learned Counsel for the petitioner further submitted that in view of pendency of the Wakf O.S.No.6 of 2016, the order impugned in the writ petition should be set aside and any attempt to disturb their possession should not be permitted. Hence, he



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prayed for allowing the writ petition.

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4. The learned Counsel for the third and fourth respondents herein had contended that after giving due opportunity to the writ petitioner, an order of eviction has been passed by the Wakf Board on 18.07.2016. Since the land belongs to the Wakf Board, they are always entitled to initiate eviction proceedings as against the encroachers. She further contended that the building plan approval cannot be granted in favour of the writ petitioner, since the property belongs to the Wakf Board. Hence, she prayed for dismissal of the writ petition.

5. I have carefully considered the submissions made on either side.

6. In view of the order passed by the Hon'ble First Bench in W.P(MD)No.7868 of 2007 on 16.12.2009, the revenue authorities or any other authority have no jurisdiction to disturb the possession of thirty occupiers including the writ petitioner. The petitioner had already obtained a building plan approval. The said approval has been cancelled pursuant to an objection raised by the Tamil Nadu Wakf Board. The



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objection has been raised by the Tamil Nadu Wakf Board on 13.06.2014 after the orders of the Hon'ble First Bench. Hence, the objection raised by the fourth respondent is not sustainable in view of orders of the Hon'ble First Bench.

7. In view of the above said facts, the order impugned in the writ petition is set aside. The third and fourth respondents herein are at liberty to carry out the eviction proceedings depending upon the finality arrived at in the eviction proceedings initiated by the Wakf Board.

8. With the above said observation, the writ petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

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Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR, J.

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