



Writ Petition No.2623 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 3/3/2023

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Writ Petition No.2623 of 2023

a n d

W.M.P.Nos.2690 and 2691 of 2023

Mohammed Farooq

...

Petitioner

Vs

1. The Chief Executive Officer
Tamil Nadu Wakf Board
Chennai 600 101.

2. Mohammed Shahid

...

Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records and quash the order, dated 9/11/2021 vide proceedings No.7494/2000/Aa1-/CUDD passed by the first respondent as illegal.

For Petitioner

...

Ms.Lekha Sankar

For respondents

...

Mr.S.Haja Mohideen Gisthi
for R.1.

ORDER



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This writ petition has been filed to quash the order, dated 9/11/2021 passed by the first respondent in Proceedings No.7494/2000/Aa1-/CUDD.

2. Brief facts which are necessary for the disposal of the writ petition are as follows:-

On an earlier, occasion, second respondent has already filed a writ petition in W.P.No.11959 of 2021, seeking to direct the first and second respondents therein to give Police protection to remove the underwood plants and bushes and to put up fence at the property situated at Udayargudi Village, Kattumannarkoil, comprised in R.S.Nos.103/1, 2 and 3 admeasuring 9.60 acre owned by Ramzan Thaikkal Pallivasal. Vide order, dated 20/5/2021, this Court has dismissed the writ petition. After dismissal of the writ petition, Wakf Board has appointed a Committee to take action against the petitioner and pursuant to that order, Authorised Officer under the Tamil Nadu Public Premises (Eviction of Unauthorized Occupants) Act, 1975, has issued a notice. The matter is still pending. Questioning the same, instant writ petition has been filed.

3. Heard Ms.Lekha Sankar, learned counsel for the petitioner and



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Mr.S.Haja Mohideen Gisthi, learned counsel for the first respondent.

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4. It is relevant to note that any order passed by the Wakf Board can be challenged only before the Tribunal. This view has been fortified by the Hon'ble Supreme Court in ***RASHID WALI BEG Vs. FARID PINDARI AND OTHERS, reported in (2022) 4 SUPREME COURT CASES 414,*** wherein it has been held as follows:-

In fact, Section 83 (5) of the Act, makes it clear that the Tribunal shall be deemed to be a Civil Court and shall have the same powers as may be exercised by a Civil Court under the CPC, while trying a suit or executing a decree or order. This is why this Court held in Mohideen Vs. Ramanatapura Peria Mogallam Jamath that the Wakf Tribunal will have power to issue temporary injunctions under Order 39 Rule 1 of CPC.”

N. SATHISH KUMAR, J



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5. The Hon'ble Supreme Court has also held that the writ petition is not maintainable, when an effective alternative remedy is available to the petitioner. In such a view of the matter, this writ petition is not maintainable, as against the order of the Wakf Board.

6. In the result, this writ petition is dismissed. If at all the petitioner is aggrieved, he can challenge the same, in the manner known to law. No costs. Consequently, the connected Miscellaneous Petition is closed.

3/3/2023

Index : Yes / No

Neutral Citation: Yes/No

mvs.

To

1. The Chief Executive Officer
Tamil Nadu Wakf Board
Chennai 600 101.

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