



WEB COPY



1

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.11253 of 2023
and W.M.P No.11134 of 2023

S.K.Syed Ali

Petitioner

vs.

1.The Under Secretary to Government,
Revenue Department,
Fort St. George, Chennai – 600 009.

2.The Tamil Nadu Waqf Board,
Rep. by its Chief Executive Officer,
No.1, Jaffar Syrang Street, Vallal Seethakathi Nagar,
Chennai – 600 001.

3.Syed Buran

Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of impugned order செ.மு.ஆணை:6751/06/ஆ10/கட dated 03.06.2022 by the 2nd respondent Tamil Nadu Waqf Board appointing the 3rd respondent as Muthawalli of the Five Gori Thaikka Wakf also known as Gori Maniyam Wakf, Sathukkoodal Road, Vriddhachalam – 606 001, Cuddalore District and quash the same.

For Petitioner : Mr.M.J.Jaseem Mohamed

For Respondent : Mrs.S.Mythreye Chandru
Special Government Pleader for R1
Mr.S.Hajamohideen Gisthi
Standing Counsel for R2



WEB COPY

ORDER

This writ petition has been filed assailing the impugned order passed by the 2nd respondent viz., the Tamil Nadu Waqf Board appointing the 3rd respondent as the Muthawalli of the Five Gori Thaikka Wakf also known as Gori Maniyam Wakf, Sathukkodal Road, Vriddhachalam – 606 001, Cuddalore District.

2.Heard Mr.J.Jaseem Mohamed, learned counsel appearing on behalf of the petitioner and Mrs.S.Mythreye Chandru, learned Special Government Pleader appearing on behalf of the 1st respondent and Mr.S.Hajamohideen Gisthi, learned Standing Counsel appearing on behalf of the 2nd respondent.

3.The grievance of the petitioner is that the Waqf Board has straightaway appointed the 3rd respondent as the Muthawalli in spite of the fact that the 3rd respondent had alienated all the Waqf properties and misappropriated the same and failed to perform the charities. That apart, according to the petitioner, there is a threat of dislodging his son from the Muthawalliship by virtue of the appointment of the 3rd respondent. Aggrieved by the same, the present writ petition has been filed before this Court.



4. This Court brought to the notice of the learned counsel for the petitioner that there is an efficacious alternative remedy available to the petitioner under Section 83 of the Waqf Act, 1995 and hence, this Court is not inclined to entertain this writ petition. The learned counsel after arguing for some time sought for the liberty of this Court to enable the petitioner to file an appropriate petition before the Waqf Tribunal and workout his remedy. The learned counsel also requested this Court to fix a time limit for the disposal of the petition filed by the petitioner before the Waqf Tribunal.

5. In the considered view of this Court where there is an efficacious remedy available, this Court will not exercise its jurisdiction under Article 226 of the Constitution of India. The extent of powers that are available to the Waqf Tribunal has been discussed in the latest judgment of the Apex Court in ***Rashid Wali Beg vs. Farid Pindari an Others*** reported in **2022 4 SCC 414**. In view of the same, this Court is not inclined to entertain this writ petition. However, liberty is granted to the petitioner to workout his remedy before the Waqf Tribunal. If the petitioner files any petition before the Waqf Tribunal questioning the appointment of the 3rd respondent as the Muthawalli, the same shall be dealt with on its own merits and in accordance with law after affording opportunity to all the parties concerned and an order shall be passed, as expeditiously as possible, preferably, within a period of six months from the date of filing of the petition before the Waqf Tribunal. Except giving this liberty, no further orders can be passed.



N. ANAND VENKATESH, J.

SSR

6.This writ petition is disposed of with the above directions. No Costs.

Consequently, connected miscellaneous petition is closed.

13.04.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ssr

To

1.The Under Secretary to Government,
Revenue Department,
Fort St. George, Chennai – 600 009.

2.The Tamil Nadu Waqf Board,
Rep. by its Chief Executive Officer,
No.1, Jaffar Syrang Street, Vallal Seethakathi Nagar,
Chennai – 600 001.

W.P No.11253 of 2023
and W.M.P No.11134 of 2023