



C.R.P.(PD) No.1232 of 2023

IN THE HIGHCOURT OF JUDICATURE AT MADRAS

Dated : 19/4/2023

C O R A M

THE HONOURABLE Dr.JUSTICE D.NAGARJUN

Civil Revision Petition (PD) No.1232 of 2023

Syed Akbar Sakcaff ... Petitioner

Vs

1. Syed Latheef
2. G.M.Syed Fasi Mohammed
3. Shabana Ayisha
4. Fathima Begum
5. Syed Thula Basha
6. S.A.Rahman
7. Syed Faizullah
8. Syed Akthar Hussain
9. Habeebunnissa Begum
10. The Tamil Nadu Waqf Board
rep. By its Chief Executive Officer
1 Jaffer Syrang Street
Vallal Seethakathi Nagar
Chennai 1.
11. The Election Officer/Superintendent of Waqfs
Chennai Zone, No.139 Dr. Besant Road
Ice House, Triplicane
Chennai 5.
12. Syed Mazhar Hussain
13. H. Mohammed Sajath
14. Syed Kasim Sakaaf
15. Syed Ajaz Ahmed



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16. H.W.Shanaaz
17. H. Gayaz Ali
18. Mubeen Aamina
19. Haseena Bi
20. Syeda Ghousia Begum
21. Showkath Jahan
22. Dadasha Makkan Wakf
rep. By the present Committee
rep. By the Present Secretary
No.5 Dargah Street
Dadashamakkan
Chennai 1.

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 8/3/2023 made in I.A.SR.No.543/23 in O.A.No.79 of 2022 on the file of the Tamil Nadu Waqf Tribunal, Chennai.

For Petitioner ... Mrs.Hema Sampath

For Respondents ... Mr.Y.Kaja Navas
for R.R.1 and 2.

Mr.Haja Mohideen Gisthi
for R.10

ORDER

This Civil Revision Petition is filed, aggrieved by the fair and decreetal order, dated 8/3/2023, made in I.A.SR.No.543 of 2023 in O.A.No.79 of 2022, on the file of the Tamil Nadu Waqf Tribunal, Chennai.



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2. The facts in brief as submitted by the learned counsel appearing for the revision petitioner is that Dadashamakan Wakf, Perambur, Chennai, is a registered and notified waqf and that petitioner is one of the beneficiaries belonging to second branch. The wakf is being managed by the Executive Committee once in three years in the General Body Meeting by the beneficiaries, as per Clause 10 of the Bye law.

3. On 3/10/2021, elections were conducted to the General Body of the Wakf. It is alleged that the elections were conducted, without following the required procedure. The elections were set aside and fresh elections were ordered. Aggrieved by the same, the elected candidates filed W.P.No.26402 of 2021 which ultimately culminated in O.A.No.31 of 2022, which is pending.

4. The Wakf Board, at the behest of candidates, who lost the election attempted to unseat the duly elected candidates, thereby, elected candidates have filed W.P.No.15977 of 2021, which was disposed of, on 10/10/2022, wherein, it is observed that if any person is aggrieved by the elections so conducted, it is open for him to raise an election dispute



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before the Tamil Nadu Wakf Tribunal by impleading themselves as intervenors in the election dispute.

5. Respondent Nos.1 to 9 who have filed O.A.No.79 of 2022 in respect of elections held on 3/10/2022, have sought for declaration that election of first respondent, as null and void, alleging that he is not the descendant of the Dadashamakkan Waqf, thereby he is not a beneficiary, and cannot contest the elections.

6. It is submitted by the petitioner herein that if the contention of the respondents 1 to 9 that respondent No.14 is not a descendant of Holy Saint Dadashamakkan and that he is not entitled to contest in the elections, it will directly affect the rights of the petitioner and his family members, thereby, it is submitted that the petitioner is also a necessary party to participate in O.A.No.79 of 2022.

7. It is further submitted by the learned counsel for the petitioner that Wakf Tribunal without appreciating the facts, and also the order of this Court made in W.P.No.15977 of 2021, has erroneously rejected the application even at the stage of numbering of the impleading petition.



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8. When the matter came up for hearing, Mr.Y.Kaja Navas, learned counsel appearing for the respondents 1 and 2 submitted that he has also represented the respondents 1 to 9 before the Waqf Tribunal and that he has no objection in case if the proposed parties are impleaded in O.A.No.79 of 2022.

9. Mr.Haja Mohideen, learned counsel representing the Wakf Board/tenth respondent has submitted that the petitioner has no locus standi and is no way connected to the issue pending before O.A.No.79 of 2022 and have recorded his objection for his impleading in O.A.No.79 of 2022.

10. Now the point for determination is “Whether the order passed by the learned Wakf Tribunal in I.A.SR.No.543 of 2023 in O.A.No.79 of 2022 can be set aside and the petitioner can be impleaded in O.A.No.79 of 2022”.

11. The respondents 1 to 9 have been disputing the election of his brother/Respondent No.14, on the ground he is not a descendant of



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Dadashamakkan Waqk. As rightly submitted by the learned counsel for the petitioner, in case, if ultimately the Tribunal gives a finding that the fourteenth respondent is not a descendant of Dadashamakkan, then that decision will certainly affect not only his brother but also the petitioner and his family members. Therefore, the observation of the trial Court that the petitioner is no way concern with the election dispute which is between the elected members and other members cannot be a ground to reject the petitions summarily. In fact, the trial Court should have numbered the petition and given an opportunity to submit their respective contentions and could have finally disposed of the petition, on merits.

12. Further, the learned Senior Counsel appearing for the petitioner has brought to the notice of this Court that in similar cases, this Court while disposing of C.R.P.No.660 of 2023, directed the Tribunal to implead the petitioner therein as one of the parties in O.A.No.79 of 2022. The petitioner herein is also similarly placed as the petitioner in C.R.P.No.660 of 2023.



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13. Considering the circumstances discussed above, orders passed by the learned Tribunal can be set aside.

14. In the result, this Civil Revision Petition is allowed and the petitioner is ordered to be impleaded as one of the respondents in O.A.No.79 of 2022. The Waqf Tribunal is directed to expedite the trial, as directed by this Court in C.R.P.No.660 of 2023 and dispose of the same within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs.

19/4/2023

Index :yes/no

Neutral Citation: Yes/No

mvs.

To

1. The Tamil Nadu Waqf Tribunal, Chennai.



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Dr.D.NAGARJUN,J

mvs.

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