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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.15588 of 2023
and W.M.P Nos.15091 & 15092 of 2023

Alhaj M.Mohamed Ansari Saheb

Petitioner

vs.

1.The Tamil Nadu Wakf Board,
Rep. by Chairman,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai – 1.

2.The Chief Executive Officer,
The Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai – 1.

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the 1st respondent in Serial No.1 Item No.325/22 Na.Ka.No.7123/03/B5/Trichy dated 09.01.2023 and quash the same.

For Petitioner : Mr.N.A.Nassir Hussain

For Respondents : Mr.Haja Mohideen Gisthi
Standing Counsel



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ORDER

This writ petition was filed challenging the proceedings of the 1st respondent dated 09.01.2023.

2.Initially, this writ petition was entertained by the Vacation Court and the following order was passed on 18.05.2023.

Primary issue to be examined is regarding modification/amendment of a scheme which had been framed by the Sub Court, Tiruchirapalli. When specifically the enactment gives the Wakf Board the power to frame the scheme, whether any amendment should be examined by the Board or by the Government is the issue which has to be examined. Let a counter be filed. Let no further coercive action be taken since the issue of jurisdiction is to be examined by the Court.

List on 19.06.2023

3.Thereafter, the matter came up for hearing, the learned Standing Counsel appearing on behalf of the Waqf Board submitted that the Mosque in question is situated at Tiruchirappalli and the petitioner had earlier moved the



writ petition before the Madurai Bench in W.P(MD)No.24675 of 2022 and pursuant to the order passed by the Madurai Bench on 31.10.2022, the impugned proceedings dated 09.01.2023 came to be issued by the 1st respondent. The learned Standing Counsel therefore submitted that the petitioner cannot be allowed to file writ petitions alternatively in both the Benches and the petitioner has to necessarily workout his remedy only before the Madurai Bench.

4.In reply to the above submission, the learned counsel for the petitioner brought to the notice of this Court the earlier order passed in W.P.No.5622 of 2023, dated 11.04.2023. The learned counsel submitted that the proceedings that were put to challenge in that writ petition also pertained to the Waqf at Tiruchirappalli. On carefully going through the said order, it is seen that even though the Waqf was situated at Tiruchirappalli, the proceedings that were put to challenge was the proceedings of the Waqf Board represented by its Chief Executive Officer at Chennai. In view of the same, the order that was relied upon by the learned counsel for the petitioner does not help the petitioner to maintain the present writ petition before this Court.



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5.This Court must maintain some consistency in entertaining writ petitions particularly where the cause of action and the order passed by the authority is entirely within the jurisdiction of the Madurai Bench. The learned counsel for the petitioner attempted to contend that the order was passed by the Waqf Board and the same was merely communicated by the Superintendent of the Board.

6.The petitioner had moved the earlier writ petition at Madurai Bench and the order that has been put to challenge is a consequence of the direction issued by the Madurai Bench. Hence, the petitioner must challenge the impugned order only before the Madurai Bench and the petitioner cannot be allowed to make his choice alternatively between the Principal Bench and the Madurai Bench.

7.In the light of the above discussion, the petitioner is given liberty to challenge the impugned proceedings dated 09.01.2023 before the Madurai Bench. The writ petition shall be filed by the petitioner, within a period of one week from today. Since the petitioner had the advantage of an interim order, the said interim order shall continue for a period of one week.



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8. This writ petition is closed after giving the above liberty to the petitioner. No Costs. Consequently, connected miscellaneous petitions are closed.

19.06.2023

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

Note: Issue Order Copy on 20.06.2023

To

1. The Tamil Nadu Wakf Board,
Rep. by Chairman,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai – 1.
2. The Chief Executive Officer,
The Tamil Nadu Wakf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai – 1.



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N. ANAND VENKATESH, J.

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