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W.P.No.5358 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.01.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN  
AND  
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.P.No.5358 of 2016

S.A.Mohammed Ali

.. Petitioner

Vs.

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

2.The Revenue Divisional Officer,  
Erode, Erode District.

3.The Superintendent of Police,  
Erode.

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF MANDAMUS directing the respondent 2 and 3 to remove the encroachment in Valayakkara Street, Ashurkhana Wakf, under Section 55 of the Wakf Act, 1995, as sought by first respondent *vide* proceedings dated 30.06.2015.



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For Petitioner : Mr.N.A.Nissar Ahmed  
For R1 : Mr.Haja Mohideen Gisti  
For RR 2 and 3 : Mr.A.Selvendiran  
Special Government Pleader.

**ORDER**

[Order of the Court was made by R.MAHADEVAN, J.]

According to the petitioner, Valayakkara Street Ashurkhana Wakf is a registered wakf and is under the control of the first respondent herein. While so, the first respondent initiated the proceedings under section 54(1) of the Wakf Act, 1995 and after conducting enquiry, passed an order on 17.03.2003 directing for removal of all the encroachments in the wakf properties. Thereafter, they sent various communications lastly on 30.06.2015, to the respondents 2 and 3 requesting to accord police protection, remove the encroachments and handover the vacant possession to the concerned mutawalli. However, till date, no action has been taken on the same. Therefore, the petitioner has come up with this writ petition seeking a direction to the respondents 2 and 3 to remove the encroachments in the wakf properties, as sought by the first respondent, vide proceedings dated 30.06.2015.



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2. When the matter was taken up for consideration, the learned counsel for the petitioner submitted that it would suffice, if a direction is issued to the respondent authorities to consider the petitioner's representation dated 05.01.2016 and pass appropriate orders, on merits, within a time frame to be stipulated by this court, for which, the learned Special Government Pleader appearing for the respondents 1 and 2 has no serious objection.

3. In view of the limited relief now sought by the learned counsel for the petitioner, which has been agreed upon by the learned Special Government Pleader appearing for the respondents 1 and 2, this court, without going into the merits of the claim made by the petitioner, directs the respondent authorities to consider the petitioner's representation dated 05.01.2016 in the light of the order of the first respondent dated 30.06.2015, and pass appropriate orders, on merits and in accordance with law, after affording due opportunity of hearing to all the parties, within a period of eight weeks from the date of receipt of a copy of this order. It is needless to



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state that if there is any encroachment as alleged by the petitioner, the same shall be removed, after following due process of law.

4. With the above direction, this writ petition stands disposed of. No costs.

[R.M.D., J.] [M.S.Q., J.]  
20.01.2023

nsd

Index: Yes / No  
Speaking Order / Non-speaking Order  
Neutral Citation: Yes/No

To

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

2. The Revenue Divisional Officer,  
Erode, Erode District.

3. The Superintendent of Police,  
Erode.

4. The Additional Government Pleader,  
High Court, Madras.

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R.MAHADEVAN, J.  
AND  
MOHAMMED SHAFFIQ, J.

nsd

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