



WEB COPY



W.P. No. 23207 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 04.10.2023**

**CORAM**

**THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU**

**W.P. No. 23207 of 2023**

**and**

**W.M.P. No. 22739 of 2023**

Mohammed Abusali

... Petitioner

-VS-

1. The Tamil Nadu Wakf Board,  
Rep. by its Chief Executive Officer,  
No.1 Jaffar Syrang Street,  
Vallal Seethakathi Nagar,  
Chennai – 1.
2. The Wakf Inspector/Executive Officer,  
Tanjore Zone,  
Tamil Nadu Wakf Board,  
Tanjore.
3. K.Mohamed Mariyam Gani,  
W/o. S.M. Sheik Dawood,  
Rep. by her Power Agent, S.M. Sheik Dawood.

(R-3 impleaded vide order dated 15.09.2023 made in  
W.M.P. No. 24012 of 2023 in W.P. No. 23207 of 2023)

... Respondents

**Prayer:-** Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records of the First Respondent in Tamil Nadu Government Gazette Notification No.VI/3(a)/44/2023 taking over Sikkandar Rowther's Wakf Theru Palli Street, Nagore, Nagai District, (G.S. No. 240/TNJ) under direct management and quash the same.



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For Petitioner : Mr. Nissar Ahmed,  
Senior Counsel  
for I.Kowser Nissar

For Respondents : Mr.S.Haja Mohideen Gisthi,  
Senior Standing Counsel (for R1 & R2)  
  
Mr.M.I.Khaleel (for R3)

### **ORDER**

Heard Mr. Nissar Ahmed, Learned Senior Counsel for the Petitioner, Mr. S.Haja Mohideen Gisthi, Learned Senior Standing Counsel for the First and Second Respondents and Mr. M.I.Khaleel, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner has challenged the notification published on 26.07.2023 in the Government of Tamil Nadu Gazette relating to Resolution in item no. 191/22 in R.C. No. 4467/13/B7/NGI dated 31.05.2023 relating to take over of Sikkandar Rowther's Wakf, Theru Palli Street, Nagore, Nagapattinam District (G.S. No. 240/TNJ) under its direct management from 31.05.2023 and appointing the Second Respondent as its Executive Officer in the exercise of powers conferred as per the provisions under Section 65 of the Waqf Act, 1995 (hereinafter referred to as 'the Act' for short).



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3. It has been brought to notice by Learned Senior Counsel appearing for the Petitioner that the prior to the publication of the impugned notification, the Petitioner had filed the Writ Petition in W.P. No. 35012 of 2022 assailing the show cause notice dated 13.12.2022 in Na.Ka.No.4467/13/B7/Nagai sent by the First Respondent, which was dismissed by this Court by order dated 13.04.2023, and the Division Bench of this Court by order dated 21.06.2023 disposed the appeal in W.A. No. 1129 of 2023 preferred against that order without dealing with the merits of the controversy and it has been kept open for the Petitioner to agitate the same before the First Respondent with an observation that the defences raised by the Petitioner would certainly have to be considered by the First Respondent before arriving at any decision. However, Learned Counsel appearing for the First Respondent points out that final decision had been taken by the First Respondent on 31.05.2023 in its meeting in the presence of Counsel for the Petitioner, but the said fact had not been brought to the notice of the Court by both parties on 21.06.2023 when the Division Bench heard the said appeal.

4. In such circumstances, Learned Senior Counsel appearing for the Petitioner seeks permission of the Court to withdraw the Writ Petition with liberty to the Petitioner to prefer appeal under Section 54(4) of the Act against



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the impugned order before the Waqf Tribunal and Learned Counsel for the  
Petitioner has made an endorsement to that effect in the court record.

5. The interim order granted by this Court on 18.08.2023 shall continue to be in force till 19.10.2023 and the Waqf Tribunal shall be at liberty to pass appropriate orders, final or interim, uninhibited and uninfluenced by any of the earlier orders passed in this Writ Petition by the Court.

6. In fine, the Writ Petition is dismissed as withdrawn. It is made clear for the purpose of reckoning limitation for availing the said remedy, the period from the date of filing of this Writ Petition, viz., 31.07.2023, till the date on which the certified copy of this order is made ready by the Registry, shall be excluded. Consequently, connected Miscellaneous Petition is closed. No costs.

04.10.2023

NCS : Yes/No

Index: Yes/No

**Note: Issue order copy by 18.10.2023.**

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To

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



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**P.D. AUDIKESAVALU, J.**

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2. The Wakf Inspector/Executive Officer,  
Tanjore Zone,  
Tamil Nadu Wakf Board,  
Tanjore.

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**04.10.2023**