



W.P.Nos.26185, 26188 & 26189 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P Nos.26185, 26188 & 26189 of 2023

and

WMP.Nos.25584, 25587 & 25588 of 2023

M.Sagayam @ Deiva Sagayam ...Petitioner in W.P.No.26185/2023

J.Selva Mary ...Petitioner in W.P.No.26188/2023

S.Valarmathy ...Petitioner in W.P.No.26189/2023

Vs.

1.The Chief Executive Officer
Office of the Tamil Nadu Wakf Board
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar
Chennai 600 001.

2.Shaik Madar Auuliya Dargah
Rep.by its Managing Committee
No.5, Jonahan Street,
Foreshore Estate
Santhome, Chennai 600 028.



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3.The Tahsildar
Mylapore Taluk
Greenways Road
Chennai 600 028.

4.The Inspector of Police (Law & Order)
Foreshore Estate Police Station
Foreshore Estate
Chennai 600 028.

...Respondents in all W.P.Nos.

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from interfering with the peaceful possession and enjoyment including eviction of the petitioner in S.No.4566/1, Mylapore Village, house measuring an extent of 640 sq.ft., situate in Door Nos.7/3, 7/2 & 7/1, Jonahan Lane, R.A.Puram, Chennai 600 028.

For Petitioners in
all W.P.Nos. : Mr.M.Sriram

For Respondents in
all W.P.Nos. : Mr.S.Haja Mohideen Gisthi
Senior Standing Counsel for R1
Mr.N.Naveen Kumar for R3 & R4
Government Advocate
Mr.L.Gavaskar for R2



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COMMUN ORDER

These Writ Petitions are filed seeking issuance of Writ of Mandamus, forbearing the respondents from interfering with the petitioners peaceful possession and enjoyment of the property in S.No.4566/1, at Mylapore Village, bearing Door Nos.7/3, 7/2 & 7/1 respectively.

2. It is the case of the petitioners that they are occupants of the building mentioned above for several years and they are claiming right over the same.

3. It is seen that the first respondent initiated proceedings for eviction under Section 54 of the Wakf Act, by treating the property in question belongs to the second respondent's wakf and the eviction order was passed against the petitioners. Challenging the same, the petitioners preferred original applications before the Wakf Tribunal in OA.No.73 of 2018, OA.No.81A of 2018 and OA.No.199 of 2018. It is further stated by



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the petitioners that when the above said original applications came for hearing before the Tribunal on 06.04.2022, due to non-appearance of the petitioners, the same were dismissed for default. In view the above dismissal of the applications, the respondents are trying to evict the petitioners from the above mentioned premises.

4. Mr.S.Haja Mohideen Gisthi, learned Senior Standing Counsel appearing for the first respondent and Mr.L.Gavaskar, learned counsel for the second respondent submitted that the petitioners suffered order of eviction in proceedings initiated by the first respondent under Section 54 of the Wakf Act and the original applications filed by them challenging the said eviction order before the Wakf Tribunal were dismissed. In such circumstances, there is no impediment for the second respondent Wakf to execute the order of eviction and take possession.

5. The learned counsel for the petitioners submitted that the petitioners filed applications for restoration of the original applications, which were dismissed for default, along with the petition to condone the



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delay in filing a petition to restore the applications in IA.Nos.687 to 688 of 2022 in OA.No.73 of 2018, IA.Nos.704 & 705/2022 in OA.No.81A of 2018 and IA.Nos.689 to 692 of 2022 in OA.No.199 of 2018. The said applications are pending consideration by the Wakf Tribunal. When the applications for restoration along with the petition to condone the delay in filing of restoration are pending before the Wakf Tribunal, the respondents are not justified in rushing to execute eviction order.

6. In view of the fact that the petitions filed by the writ petitioners seeking restoration of the original applications filed by them before the Wakf Tribunal are pending consideration along with petition to condone the delay in filing the petition to restore the applications, this Court is inclined to grant interim protection to the petitioners from eviction till disposal of restoration petitions filed by the petitioners, subject to conditions mentioned hereunder. The Wakf Tribunal is directed to dispose of the petitions to condone the delay in seeking restoration of the original applications within a period of four weeks from the date of receipt of copy of this order.



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7. The petitioners are directed to deposit a sum of Rs.25,000/- each to the credit of respective original applications pending before the Wakf Tribunal within a period of two weeks from the date of receipt of copy of this order. If the petitioners fail to deposit the amount as directed, the interim protection granted to them will stand automatically vacated. In case, the petitioners succeed in the original applications they are entitled to receive the amount deposited by them. On the other hand, if the original applications are decided in favour of the respondents' Wakf, the second respondent Wakf is entitled to withdraw the amount deposited by the petitioners towards use and occupation of land in question.

8. In case, the delay is condoned, the petition to restore the applications shall be disposed of on merits and in accordance with law within a further period of two weeks from the date of disposal of petition to condone the delay in filing restoration petition. Till such time the possession of petitioners shall not be disturbed.



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9. At this juncture, the learned counsel for the petitioners brought to the notice of this Court that in some of the original applications, petition to bring on record the legal representatives of the deceased applicant therein are pending and the same has to be considered by the Wakf Tribunal.

10. It is needless to say that the petitions to bring the legal representatives on record have to be considered by the Wakf Tribunal and then the petition to condone the delay in filing restoration petition shall be taken for hearing. The respondents are directed to file their counter in the petition to condone the delay in filing restoration application and the restoration application within a period of one week from the date of receipt of copy of this order.

11. With the above observations, these Writ Petitions are disposed of. It is made clear that till the disposal of the petition to condone the delay and the restoration applications, the possession of the petitioners shall not be disturbed by the respondents. It is needless to say



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if the proceedings before the Wakf Tribunal culminates in favour of the second respondent, it is open to it to execute the eviction order in accordance with law.

12. With these observations, all the Writ Petitions are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

08.09.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation Case : Yes/No
dna



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