



W.P(MD)No.1016 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2023

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

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Janab.Dr.O.Nijam Babu,
President,
Jamiya Masjidh,
S/o.Oli Mohamed,
Muthavalli Jamiya Majjid,
No.11, Mullah Street,
Karur,
Karur District.

... Petitioner

vs.

- 1.The District Collector,
Collectorate Office,
Karur,
Karur District.
- 2.The Commissioner,
Karur Corporation,
Karur.
- 3.The Tahsildar,
Karur Taluk,
Karur District.



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4.The Superintendent of Waqf,
Waqf Superintendent Office,
8/124, Kayithey Millad Road,
Palakarai,
Trichy – 8.

5.The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

6.The Chairman,
Tamil Nadu Waqf Board,
No.Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order passed by the second respondent vide A.K.No.04/2022/F1, dated 22.08.2022 and set aside the same and consequently directing the second respondent to not to interfere in the Jamiya Majjid property within a time frame.

For Petitioner : Mr.S.Balaji

For RR 1 & 3 : Mr.P.T.Thiraviyam
Government Advocate

For R – 2 : Mr.K.Balasubramani
Standing Counsel



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ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The prayer in the writ petition is for issuance of a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order passed by the second respondent vide A.K.No.04/2022/F1, dated 22.08.2022 and set aside the same and consequently directing the second respondent to not to interfere in the Jamiya Majjid property within a time frame.

2.According to the petitioner, the property in T.S.No.638, Old T.S.No.207/2, measuring to an extent of 0.1028.00 belongs to Kabarasthan Wakf Board for the purpose of the pious religious and charitable burial grounds. In the vacant land, petty shops and small houses were constructed and let out for rental and the income derived from them was used for performing the religious poojas. While so, the second respondent issued a notice, dated 22.08.2022 to the petitioner stating the said property in the abovesaid survey number belonged to the Government poramboke burial ground and stop the new constructions and remove the same within 7 days.



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Further, the petitioner has stated that he made a representation to the respondents on 16.11.2022.

3.Heard the learned counsel appearing on either side and perused the materials available on record.

4.On a perusal of the materials available on record, it is seen that the petitioner being the President of Jamiya Masjidh has filed the present Writ Petition challenging the impugned order passed by the second respondent dated 22.08.2022, in which, the second respondent has directed the petitioner to remove the unauthorized construction in the aforesaid survey number, which is classified as a Government poramboke burial ground. Originally, the second respondent issued the impugned show-cause notice on 06.05.2022 and there was no response. Therefore, the final impugned order came to be passed on 22.08.2022 and the detailed explanation has been submitted by the petitioner on 16.11.2022. The said explanation has been submitted by the petitioner belatedly after the final order passed by the second respondent. Further, on going through the records it is seen that the petitioner has not obtained any building plan approval for construction in the aforesaid property. Therefore, the petitioner



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has unauthorizedly constructed the said building. In such circumstances, we are not inclined to interfere with the impugned order passed by the second respondent, dated 22.08.2022. Accordingly, this Writ Petition is dismissed. However, this order will not stand in the way of the petitioner to work out his remedy, if any provision is available if he is so advised. No costs.

[D.K.K.,J.] [R.V.,J.]
19.01.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps

To

- 1.The District Collector,
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- 3.The Tahsildar,
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and
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ps

ORDER MADE IN
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DATED : 19.01.2023