



W.P.(MD)No.11571 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 11.05.2023

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.11571 of 2023

and

W.M.P.(MD)No.10058 of 2023

S.Abdul Jabbar

... Petitioner

-Vs-

1.The Chief Executive Officer,
Tamil Nadu Waqf Board,
Jaffar Syrang Street,
Vallaseethakathi Nagar, Chennai.

2.The Sub Collector,
Padmanabapuram, Kanyakumari District.

3.F.Kaleel Rahman

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned proceedings of the 2nd respondent in Na.Ka.No.A2/8243/2022, dated 04.05.2023 and quash the same as illegal.

For Petitioner : Mr.M.Mahaboob Athiff

For R1 : Mr.D.Haroon Rasheed

For R3 : Mr.G.Prabhu Rajadurai



W.P.(MD)No.11571 of 2023

WEB COPY

ORDER

Heard the learned counsel on either side.

2.The writ petitioner herein had earlier filed W.P.(MD)No.27883 of 2022, challenging the order dated 02.12.2022 passed by the 2nd respondent herein. The said order was set aside by me on 04.01.2023 in the following terms:-

“10.The second respondent can pass an order afresh after given a formal notice to the petitioner. Seven days notice can be given to the petitioner to hand over charge and possession of Waqf. If the petitioner or the other members of the earlier committee of management fail to comply with the same, the consequences set out in the other provisions will follow. They are liable for prosecution as contemplated under Section 68(3) of the Waqf Act.

11.If still the petitioner does not comply with the order, the third respondent is given liberty to move the jurisdictional Magistrate under Section 68(4) of the Waqf Act. Such a petition will be numbered forthwith and the learned Magistrate shall pass an order in terms of Section 68(4) of the Waqf Act. I make it clear that the jurisdictional Magistrate will not take more than ten days to pass such a order on an application being filed by the third respondent.

12.These directions given in this writ petition will of course be subject to any other order that may be passed in C.R.P.(MD)No. 541 of 2022. It is also open to the petitioner to question the order



W.P.(MD)No.11571 of 2023

passed by the Waqf Board on 09.11.2022. If any such challenge is entertained and any interim or final order is passed therein, the present directions will of course abide by them.

13.The writ petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.”

3.Questioning the same, the petitioner herein filed W.A.(MD)No.41 of 2023. It is not in dispute that till date the petitioner has not obtained any interim order in the Writ Appeal. W.P.(MD)No.6320 of 2023 as well as C.R.P.(MD)No.541 of 2022 are still pending adjudication without any interim order in favour of the petitioner. In the meanwhile, the 3rd respondent herein filed Cont.P.(MD)No.478 of 2023, wherein on 20.04.2023 I passed the following order:-

“The learned counsel appearing for the petitioner states that the order passed by the respondent on 18.03.2023 has been challenged by the writ petitioner in W.P(MD)No.6320 of 2023. If any interim order is granted therein the respondent cannot proceed further. If no interim order has been granted, the respondent will not treat the pendency of writ petition as interim order. The respondent will have to take further steps. The respondent shall file a status report on 27.04.2023. The respondent will intimate the writ petitioner that if the writ petitioner is unable to get any interim order, the respondent will be constrained to move further in the matter.



W.P.(MD)No.11571 of 2023

4. Thereafter, the impugned communication dated 04.05.2023 has been issued by the 2nd respondent. Challenging the same, the present Writ Petition has been filed.

5. The learned counsel for the petitioner reiterated the contentions set out in the affidavit filed in support of this petition and called upon this Court to set aside the impugned order and to grant the relief as prayed for.

6. I am not persuaded by the submissions advanced by the learned counsel for the petitioner. I am more than satisfied that the impugned communication dated 04.05.2023 has been issued in terms of the directions given in paragraph No.10 of the earlier order dated 04.01.2023. If the petitioner fails to comply with the same, the consequences set out in the paragraph Nos.10 and 11 will follow. The aggrieved individual including the 3rd respondent herein can very well avail the remedy set out under Section 68(4) of Waqf Act and the directions given in the paragraph No.11 of the earlier order dated 04.01.2023 will certainly apply. There is no need to interfere at this stage. The earlier order dated 04.01.2023 will speak for itself and of course, the consequences will abide by the outcome of the Writ Appeal filed by the writ petitioner herein.



W.P.(MD)No.11571 of 2023

WEB COPY

7. With these observations, this Writ Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

11.05.2023

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

MYR



WEB COPY



W.P.(MD)No.11571 of 2023

G.R.SWAMINATHAN, J

MYR

Order made in
W.P.(MD)No.11571 of 2023

Dated:

11.05.2023