



W.P.(MD).No.16138 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 05.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

**W.P.(MD).No.16138 of 2023
and
W.M.P.(MD).No.13533 of 2023**

M.Mohammed Abdul Kader

... Petitioner

Vs.

- 1.The Chief Executive Officer,
Tamil Nadu Wakf Board,
Door No.1, Jafar Sirang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
- 2.The Superintendent of Wakf,
Tamil Nadu Wakf Board,
Tirunelveli Region,
51/80, KAP Complex,
TVM Road,
Kulavanigarapuram,
Palayamkottai,
Tirunelveli – 627 002.
- 3.The Revenue Divisional Officer,
Nagercoil.



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4.S.Sugarno,
The President,
Malick Dhinar Baithulmal,
Pon Arippu Street,
Kottar Post,
Nagercoil – 629 002.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the order passed by the third respondent vide No. 3/6996/2022 dated 21.06.2023, quash the same.

For Petitioner : Mr.C.T.Perumal

For R-1 and R-2 : Mr.D.S.Haroon Rasheed,
Standing Counsel.

For R-3 : Mr.B.Saravanan,
Additional Government Pleader.

ORDER

This Writ Petition is filed to quash the order dated 21.06.2023.

2. This Court is not going into the merits of the issue which is contested before the Revenue Divisional Officer, Nagercoil.



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3. The contention of the petitioner is that the Revenue Divisional Officer issued notice dated 23.05.2023. Even though the said notice is dated 23.05.2023, he had signed it on 26.05.2023. Further the notice was posted on 29.05.2023, for which the petitioner circulated a cover, wherein the postal endorsement clearly mentioned the date as 29.05.2023. The notice states that the enquiry will be conducted on 02.06.2023, but the petitioner has received the notice on 03.06.2023. Hence, he could not attend the enquiry which was conducted on 02.06.2023.

4. However, the said contention was refuted by the respondents by stating that the petitioner has received the same, which is evident in the impugned order dated 21.06.2023, wherein it is stated that the notice was served to Mohideen Abdul Kader. This contention was refuted by the petitioner by stating that there is another person whose name is similar to Abdul Kader. On verifying the impugned order, it is seen that the fourth person is Mohideen Abdul Kader and the fifth person's name is Mohammed Abdul Kader. The name of the petitioner herein is Mohammed Abdul Kader, which is evident from the postal cover.



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5. Therefore, this Court is of the considered opinion that there is a confusion with regard to the name and the impugned order has not clearly recorded to whom the notice was served. Therefore, a benefit of doubt is granted to the petitioner. Hence, the impugned order is set aside. The third respondent is directed to issue notice well before the date of hearing, so that the petitioner could get ready for the enquiry with all his records. After giving sufficient opportunity to the petitioner, the third respondent is directed to conduct a fresh enquiry and thereafter pass appropriate order. Since this Court has ordered for denovo enquiry, it goes without saying that the respondents shall issue notice to all the interested parties. The said exercise shall be completed within a period of eight (8) weeks from the date of receipt of a copy of this order.

6. In view of the above, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

05.07.2023

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



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S.SRIMATHY, J.

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