



W.P. (MD) No. 18262 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 14.02.2023

C O R A M

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P. (MD) No. 18262 of 2021

M.R.Abubacker

... Petitioner

Vs.

1.The Chief Executive Officer,
Wakf Board,
No.1, Jafer Jarang Street,
Vallal Seethakadi Nagar,
Chennai.

2.The Superintendent of Wakf,
Wakf Board, S.N.High Road,
Tirunelveli.

3.The Inspector,
Wakf Board,
Tirunelveli.

4.The District Collector,
Tirunelveli District,
Tirunelveli.

5.The Commissioner of Police,
Tirunelveli City Police,
Tirunelveli.



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6. The Inspector of Police,
Thachanallur Police Station,
Tirunelveli.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Mandamus, to direct the respondents to safe guard the petitioner's land by restraining the third parties from interfering in the land in Survey No.545 to 552, T.S.No.2, 3, 4, 5, 6, 9, 10, 11 to an extent of 27 acres situated at Kandiaperi-II Village, Tirunelveli belongs to the Farusullasha Pakeer Taika Wakf without getting NOC from the petitioner and Wakf Board based on the petitioner's representation dated 27.09.2021.

For Petitioner	: Mr. T.Selvan
For R5 & R6	: Mr.D.Gandhiraj Special Government Pleader
For R1 to R3	: Mr. G.Chandrasekar Standing Counsel
For R4	: Mr. M.Veeranthran

ORDER

Heard Mr. T.Selvam, Learned Counsel for the Petitioner, Mr. D.Gandhiraj, Learned Special Government Pleader appearing for the Fifth and Sixth Respondents, Mr. G.Chandrasekar, Learned Standing Counsel appearing for the First to Third Respondents and Mr. M.Veeranthran, Learned Counsel appearing for the Fourth Respondent.



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2. The Writ Petition has been filed for directing the respondents to safeguard the land of the Petitioner by restraining the third parties from interfering into the land in Survey No.545 to 552, T.S.No.2, 3, 4, 5, 6, 9, 10, 11 to an extent of 27 acres situated at Kandiaperi-II Village, Tirunelveli, belongs to the Farusullasha Pakeer Taika Wakf without getting NOC from the petitioner and Wakf Board based on his representation dated 27.09.2021.

3. It is revealed from the facts disclosed in the affidavit filed in support of the Writ Petition that the nature of dispute involved relates to the property rights between the Petitioner and Farusullasha Pakeer Taika Wakf . The Hon'ble Supreme Court of India in ***Roshna T. -vs- Abdul Azeez K.T.*** [(2019 2 SCC 329)] has reiterated the law that disputed questions of fact relating to property rights, which are private in character and do not have any element of public law involved, require full fledged trial by recording of evidence of parties and cannot be decided in a summary manner in proceedings under Article 226 of the Constitution of India.



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4. In view of the aforesaid legal position, Learned Counsel for the Petitioner seeks permission of the Court to withdraw the Writ Petition with liberty to pursue the legal remedies before the proper Forum in the manner recognized by law and he has made an endorsement to that effect in the court record.

In fine, the Writ Petition is dismissed as withdrawn granting such liberty. No costs.

14.02.2023

Index : Yes/No

Internet : Yes/No

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Note:- Issue order copy by 03.03.2023.

To

1.The Chief Executive Officer,
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3.The Inspector,
Wakf Board,
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4.The District Collector,
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5.The Commissioner of Police,
Tirunelveli City Police,
Tirunelveli.

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