



W.P(MD)No.25088 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:26.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.25088 of 2022
and WMP(MD)Nos.19190 and 19191 of 2022

Mohamed Jaffer Khan Pani

... Petitioner

Vs

1. The District Collector,
Collectorate, Tirunelveli.
2. The Revenue Divisional Officer,
Revenue Divisional Office,
Palayamkottai, Tirunelveli.
3. The Tahsildar,
Tahsildar Office, Thisayanvilai,
Tirunelveli.
4. The Superintendent of Police,
Tirunelveli District, Tirunelveli.
5. The Inspector of Police,
Thisayanvilai, Tirunelveli.
6. The Chief Executive Officer,
Tamil Nadu Wakf Board,
Jaffer Syrang Board, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai.



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7. The Superintendent of Wakfs,
Khader Auliya Mosque Complex,
Tamil Nadu Wakf Board, Tirunelveli Zone,
51/18, Thiruvananthapuram Road, Palayamkottai,
Tirunelveli District.

8. P.Rajendran

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned peace committee resolution of the third respondent in his proceedings in Na.Ka.A1/2199/2022, dated 12.10.2022 is without jurisdiction and quash the same as illegal and further directing the respondents 4 and 5 to accord police protection for the Petitioner (Muthavali of Khan Mian Pallivasal Wakf) to survey and demarcate the land in S.No.791 to 894 in Urumankulam vilalge, Thisaiyanvilai Taluk, Tirunelveli District within a time stipulated by this Court.

For Petitioner	:Mr. D.Nallathambi
For R1 to R5	:Mr.R.Baskaran Additional Advocate General Assisted by Mr.N.Muthuvijayan Special Government Pleader
For R6 to R8	:No Appearance



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ORDER

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The writ petition has been filed in the nature of Certiorarified Mandamus, seeking the records of the impugned peace committee resolution of the third respondent/Tahsildar, Thisayanvilai, Tirunelveli, in his proceedings in Na.Ka.A1/2199/2022, dated 12.10.2022 and for a further direction to the respondents 4 and 5/Superintendent of Police, Tirunelveli District and Inspector of Police, Thisayanvilai, Tirunelveli, to grant police protection to the Petitioner Muthavalli of Khan Mian Pallivasal Wakf, to survey and demarcate the land in S.Nos.791 to 894 in Urumankulam village, Thisaiyanvilai Taluk, Tirunelveli District.

2.In the affidavit filed in support of the writ petition, it had been stated that the said Wakf has several properties including the subject property which is situated in three villages, namely Urumankulam village property in R.S.No.1 to 721, Islapuram village property in R.S.No.1 to 69 and Rammathupuram village in R.S.No.1 to 106. It has been stated that all the villages have been brought under one village namely, Urmankulam village in R.S.No.1 to 896. The total area is 2617.39.0 hectares.



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3.It had been stated that entire property was numbered as S.Nos. 723 to S.Nos. 879, in Urumankulam village, Thisaiyanvilai Taluk, Tirunelveli District. It has been stated that the said proceedings were initiated under the Tamil Nadu Inam Estate (Abolition and Conversion into Ryotwari) Act, 1963. Further proceedings had taken place and finally, it had been published in Government Gazette.

4.It had been further stated that there was a suit in O.S.No. 65 of 1961 filed before the Sub Court, Tirunelveli and proceedings before the Wakf Tribunal/Principal Sub Court, Tirunelveli in O.S.No.299 of 2011, wherein, the suit was filed for declaration of title, permanent injunction and recovery of possession. It had been decreed. The copy of the Judgment has not been enclosed along with the records filed in the writ petition. However, the copy of the decree alone has been filed.

5.Thereafter, in view of various circumstances which had arisen over the possession of land, the third respondent had called for a peace committee meeting on 12.10.2022. In the said meeting, it had been pointed out that the land measuring 1047 acres in S.No.853 were reflected as



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Government Poramboke in the revenue records. It had been stated till it is decided as to who is the pattadhar of said land, nobody should enter into the said land, except those whose names were duly entered in the Patta passbook. This has given rise to filing of the present writ petition.

6.The learned counsel for the petitioner, primarily relied on the decree obtained by him for declaration of title and permanent injunction, stated that the respondents had filed a Civil Revision Petition which is pending. It is further claimed that no interim order was granted in that Civil Revision Petition.

7.The learned Additional Advocate General also pointed out that Civil Revision Petition is pending and further stated that in the peace committee meeting all the parties have signed. The resolution in the peace committee meeting was only to protect the land from any other third-party encroachment.

8.I had given my careful consideration to the arguments advanced.



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9. It is only appropriate that when the issues are pending before one Court, the other reliefs are taken up for consideration in the same Court. In the suit filed for declaration of title and permanent injunction before the Wakf Tribunal, a Judgment had been delivered. Questioning that, a Civil Revision Petition had been filed. In the meanwhile, the third respondent had convened a peace committee meeting and had passed the impugned order stating that nobody has a right to enter into the land. If the meeting convened by the third respondent is violative of the civil Court decree, then the petitioner should take up the issue in the Civil Revision Petition, which is now pending and urge that in spite of a valid decree obtained, not only for declaration of title and also for permanent injunction and recovery of possession, a decision has been taken in the peace committee meeting. It is only appropriate that one particular Court examines all the issues relating to title and possession. This Court cannot examine the said issue, as it will only be a parallel exercise. The issue of possession can never be agitated on the basis of affidavits. The copy of Judgment has not been filed as a document in the writ petition.



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10.The petitioner can very well question the right and authority of the third respondent to convene the peace committee meeting. When there is a law and order problem in the area and to protect the land, the Government officials may pass an order that no one should enter into the land, not permanently, but till the issue of Patta is settled. The Civil Revision Petition is pending and the petitioner can always take up the issues before the said Court.

11.This writ petition is only superfluous. I am not able to give any relief to the petitioner, however, shall grant liberty to the petitioner to question the issues before the appropriate civil Court. Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

26.04.2023

NCS :Yes/No
Index :Yes/No
Internet:Yes/No
PNM



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C.V.KARTHIKEYAN, J.

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ORDER IN
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