



WEB COPY



W.P. No. 681 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 681 of 2024

and

W.M.P. No. 711 of 2024

Hazarath Syed Shah Dada Peer Dargah Waqf,
Represented by its Muthawalli,
S.Syed Meer,
Arcot Town and Taluk,
Ranipet District.

... Petitioner

-VS-

1. The Commissioner,
Arcot Municipality,
Arcot Town and Taluk,
Ranipet District.
2. The Tamil Nadu Waqf Board,
Represented by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600001.
3. The Inspector of Police,
Arcot Town Police Station,
Arcot,
Ranipet District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, forbearing the First Respondent from or anybody on behalf him from interfering or disturbing the development



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work carried out in the waqf property without any due process of law bearing T.S. No. 39, New S.No. 134, Ward No. A, situated at Arcot Town and Taluk, Ranipet District, without any notice and following due process of law.

For Petitioner : Mr. M.M.I.Khaleel

For Respondents : Mr. B.Anand (for R1)

Mr. Avinash Wadhwani (for R2)

Mr. J.Subbiah
Government Advocate (Criminal Side)
(for R3)

ORDER

Heard Mr. M.M.I.Khaleel, Learned Counsel for the Petitioner, Mr. B.Anand, Learned Counsel appearing for the First Respondent, Mr. Avinash Wadhwani, Learned Counsel appearing for the Second Respondent and Mr. J.Subbiah, Learned Counsel appearing for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioner that the property measuring extents of 00.2.35 hectare (5 cents) and 00.3.25 hectare (8 cents) situate at Town Survey No. 39, New Survey No. 134 , Ward A, Arcot Town and Taluk, Ranipet District



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belongs to it and comes under the control of the Second Respondent. It is

complained by the Petitioner that under the guise of claiming ownership of the Arcot Municipal Bus Stand, which is located adjacent to its property, the First Respondent is preventing it from constructing a compound wall to protect its property. In that backdrop, this Writ Petition has been filed for restraining the First Respondent or anybody on behalf him from interfering or disturbing the development work carried out in the Waqf property without any due process of law.

3. It is beyond cavil that Section 83 of the Waqf Act, 1995, confers exclusive jurisdiction on the jurisdictional Waqf Tribunal to determine any dispute, question or other matter relating to the Waqf or Waqf property as highlighted by the Hon'ble Supreme Court of India in ***Rashid Wali Beg -vs- Farid Pindari*** [(2022) 4 SCC 414]. It has been brought to notice that suit claiming relief for declaration of the title and injunction in O.S. No. 171 of 2019 filed by the Petitioner against the First Respondent relating to the same property is pending before the Waqf Tribunal, Chennai. That apart, the nature of relief claimed by the Petitioner falls within the realm of disputed questions of fact, which cannot be effectively determined by this Court in proceedings under Article 226 of the Constitution following summary procedure. It must be



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recapitulated here that the Hon'ble Supreme Court of India in the decision in

Roshina T. -vs- Abdul Azeez K.T. [(2019) 2 SCC 329] has cautioned that such

claims relating to property rights would have to be answered one way or the other only in a properly framed suit impleading necessary parties before the civil court, which would be the jurisdictional Waqf Tribunal in this case. In such circumstances, the Petitioner has not been impeded from canvassing what is sought to be agitated in this Writ Petition in the aforesaid statutory remedy and there is no acceptable explanation from the Petitioner for not having availed it. In that view of the matter, this Court is not inclined to entertain this Writ Petition or delve into the merits of the controversy involved.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

19.01.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 13.06.2024.

pal/gsa



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To

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P.D. AUDIKESAVALU, J.

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