



W.P.No.31740 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.31740 of 2015

- 1.MahboobBasha
- 2.Niyamathullah
- 3.Rahimanullah
- 4.Rahimullah
- 5.Ghayazullah

Represented by their Power of Attorney agent
Y.Akbar Ahmed

... Petitioners

Vs.

- 1.The Chairman
Tamilnadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
- 2.The Chief Executive Officer,
Tamilnadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
- 3.Shabuddin
- 4.Hasan Ambalam
- 5.The Chief Executive Officer
Cantonment Board Office,
St.Thomas Mount,
Chennai – 600 016.

...Respondents



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Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the second respondent herein the Chief Executive Officer of the Tamilnadu Wakf Board, Chennai to recall the No Objection Certificates issued to the respondents 3 to 5 for the property comprised in survey no:1791, extent: 6752, in St.Patricks Church Road, in St.Thomas Mount, Chennai – 600 016, or any other appropriate writ or order directing the second respondent to consider the petitioner's representation dated 24.06.2015.

For Petitioner : M/s.McGan Law Firm
For Respondents : Mr.C.Mohan for R5
for M/s.King and Partridge
R3 & R4 – No Appearance

ORDER

This writ petition has been filed seeking issuance of Writ of Mandamus directing the second respondent to recall the No Objection Certificates issued to the respondents 3 to 5 for the property comprised in survey no:1791, extent: 6752, in St.Patricks Church Road, in St.Thomas Mount, Chennai – 600 016 and to consider the petitioner's representation dated 24.06.2015.

2.The learned counsel appearing for the petitioners submitted that the subject property was originally owned by one Shaik Dawood



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Sahib and on his demise his son Mohammed Ghouse inherited the property and on his demise his son Mohammed Habibullah @ Habeeb inherited the property and on his demise on 20.05.1998, his legal heirs succeeded the property. His wife Meharunissa settled her 1/8th share in favour of her sons and daughters and the female legal heirs settled their share in favour of their brothers namely the petitioners herein. Whiles one Nawab sought for information under the Right to Information Act, 2005 from the Public Information Officer of the Tamil Nadu Wakf Board on 25.08.2010 about the documents held by the Tamil Nadu Wakf Board. In the reply given under the RTI Act, the subject property was claimed to be the Wakf property.

3.The learned counsel appearing for the petitioners further submitted that the petitioners executed general power of attorney in favour of one Y.Akbar Ahmed vide Doc.No.44/2013 on the file of the Joint – II, S.R.O. Saidapet, Chennai and he made representation to the respondents 1 and 2 along with all relevant documents stating that the property is not a Wakf property. However, the respondents 1 and 2 issued No Objection Certificates to the respondents 3 and 4 for availing construction planning permission from the fifth respondent for construction of Commercial Outlet/ Mansion in the



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subject property.

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4.The learned counsel appearing for the petitioners further submitted that the second respondent have no locus standi to issue No Objection Certificates to the respondents 3 to 5.

5.The learned counsel appearing for the fifth respondent submitted that earlier for the very same property, Butt Road Jumma Masjid represented by its Secretary filed S.A.No.1080 of 2001 as against the first petitioner seeking to set aside the decree of the Subordinate Judge, Poonamallee dated 14.12.2000 in A.S.No.13 of 1996 preferred against the decree of the Court of the District Munsif, Tambaram in O.S.No.3306 of 1993 dated 28.11.1994 and this Court vide order dated 28.09.2011 set aside the judgment and decree of both the Courts below and directed the first petitioner to vacate and hand over possession of the property to Butt Road Jumma Masjid and the same was confirmed by the Hon'ble Apex Court in the order dated 01.05.2012 in SLP No.8929 of 2012. The learned counsel further submitted that if at all the petitioners have any grievance, they have to file appropriate petition before the Wakf Tribunal.



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6.Perusal of records reveal that earlier for the very same property, Butt Road Jumma Masjid represented by its Secretary filed S.A.No.1080 of 2001 as against the first petitioner seeking to set aside the decree of the Subordinate Judge, Poonamallee dated 14.12.2000 in A.S.No.13 of 1996 preferred against the decree of the Court of the District Munsif, Tambaram in O.S.No.3306 of 1993 dated 28.11.1994 and this Court vide order dated 28.09.2011 set aside the judgment and decree of both the Courts below and directed the first petitioner to vacate and hand over possession of the property to Butt Road Jumma Masjid and the same was confirmed by the Hon'ble Apex Court in the order dated 01.05.2012 in SLP No.8929 of 2012. If at all the petitioners have any grievance, they have to file appropriate petition before the Wakf Tribunal. Hence, filing the writ petition instead of approaching the Wakf Tribunal is not sustainable one.

7.The writ petition is accordingly dismissed. No costs.

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Index: Yes/ No

Speaking Order: Yes/ No

NCC: Yes/ No

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M.DHANDAPANI,J.
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To

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Chennai – 600 001.
- 2.The Chief Executive Officer,
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