



W.P.No.36001 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2024

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.36001 of 2015

and

MP.No.1 of 2015

Mohamed Sharbudeen

...Petitioner

Vs.

1. The Commissioner,  
Tamil Nadu Wakf Board,  
Thiruvallur District, Big Mosque Campus,  
Poonamallee, Chennai – 600 056.

2. Shahul Hameed

...Respondents

Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Mandamus, directing the respondents not to interfere in any manner in the functioning of the mosque built in the private property pursuant to the execution of a registered will by the petitioner's father registered as Doc.No.3 of 1978 under the management of the petitioner.

For Petitioner : Mr.A.N.F.Mohamed Iqbal

For Respondents : Mr.LSM.Hasan Fizal, AGP, for R1  
: Ms.N.Rabiya, for R2



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## **ORDER**

The petitioner has filed this Writ petition seeking direction to the respondents not to interfere in any manner in the functioning of the mosque built in the private property, pursuant to the execution of a registered will by the petitioner's father registered as Doc.No.3 of 1978 under the management of the petitioner.

2. The case of the petitioner is that, his father was a pious and ardent follower of Islamic rites and customary practice and he also performed his Haj Pilgrimage. The petitioner's father put up a private mosque in the name of Jumma Mazjid Pallaivasal Sunathwal Jamad in his own property situated at Thirumazhisai, Chennai, as there is no mosque in his village and its surroundings and he was maintaining the property where the mosque is situated with his own earnings. Subsequently, the petitioner's father delegated his work in respect of management of the mosque to the petitioner in the year 1990, for which he also executed a registered WILL giving absolute power to the petitioner to manage the property. While so, the 2<sup>nd</sup> respondent by colluding with other persons is causing disturbance to the petitioner and is

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interrupting with the day to day functioning of the said Mosque and they also made false complaints before the Wakf board, pursuant to which, the 1<sup>st</sup> respondent issued a notice dated 23.04.2012, for which, the petitioner sent a reply dated 17.05.2012 and also submitted the income and expenditure accounts, however, the same was not considered by the 1<sup>st</sup> respondent and the respondent till date. Hence, this Writ petition.

3. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record, more particularly the order impugned.

4. According to the petitioner, by virtue of the WILL executed in his favour, the petitioner is maintaining the above said private mosque and carrying on the day to day administration of the same. While so, on the basis of the complaint given by the private individuals, unnecessary interference is being caused by the wakf board by issuing a notice dated 23.04.2012 to the petitioner, for which, he sent a detailed reply on 17.05.2012. However, till date, no further order has been passed by the 1<sup>st</sup> respondent.



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5. It is evident from the notice dated 23.04.2012 that the petitioner was called upon to pay the fee payable to the Wakf board as contemplated under Section 72 of the Wakf Act, 1995. However, the petitioner in his reply denied that, he is not liable to pay such amount as it is a private wakf.

6. Section 72 of the Wakf Act deals with Annual contribution payable to board. The notice dated 23.04.2012 was issued by the wakf board in exercise of the power conferred under Section 72 of the Act. Therefore, even though the petitioner claims that it is a private wakf, it will come under the administrative control of the wakf board and thereby, the demand made by the wakf board for payment of the Annual subscription is in accordance with Section 72 of the Act. Further, without challenging the said demand notice dated 23.04.2012, the petitioner has come up with this Writ petition seeking to forbear the respondents from interfering with the functioning of the said mosque, which is not sustainable. Hence, this Court refuses to grant any relief to the petitioner.

7. However, the petitioner is at liberty to submit a detailed reply/



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objection before the 1<sup>st</sup> respondent. Upon receipt of such reply/objection, the 1<sup>st</sup> respondent shall consider the same on merits and pass appropriate orders within a period of four weeks from the date of receipt of such reply/objection, after affording an opportunity of hearing to the petitioner and aggrieved persons, if any.

8. For the reasons aforesaid, this Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous petition is closed.

**19.10.2024**

skt

NCC : Yes/No  
Index : Yes/No  
Speaking Order : Yes/No

To:

The Commissioner,  
Tamil Nadu Wakf Board,  
Thiruvallur District, Big Mosque Campus,  
Poonamallee, Chennai – 600 056.



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**M.DHANDAPANI, J.**

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