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W.P.No.11964 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.11964 of 2018

1.S.M.Sabahuddin Fakhri
2.S.M.A.K.Aazam Fakhri
3.S.M.Nazeefuddin Fakhri
4.S.M.Abdul Khader Fakhri
5.S.M.Naser Fakhri
rep. by POA Mrs.Shameem Fakhri ... Petitioners

Vs.

1.The Tamil Nadu Wakf Board
Rep. by its Chief Executive Officer
1, Jaffar Syrang Street,
Vallalseethakathi Nagar
Chennai – 600 001.
2.The Superintendent of Wakf,
The Tamil Nadu Wakf Board,
No.139, Dr.Besant Road (Aruna Garden)
Ice House,
Chennai – 600 005. ... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling upon the respondents to pay the amounts demanded by the petitioner, to remove the vehicles to be parked by the first and second respondent in the property which is in the ownership of the petitioners and to pay the sum of Rs.1,91,75,000/- (One Crore Ninety One Lakhs Seventy Five

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Thousand Only) being the income derived by the respondents from the wrongful exploitation of the property owned by the petitioners, to render accounts for the income earned being the Wakf-Alal-Aulad 1/3rd extent of the property as earned and to the rendition of the accounts for the same.

For Petitioners : Mr.Zaffarullah Khan
For Respondents : Mr.Avinash Wadhwani

O R D E R

The petitioners have filed this writ petition seeking issuance of Writ of Certiorarified Mandamus, calling upon the respondents to pay the amounts demanded by the petitioner, to remove the vehicles to be parked by the respondents 1 and 2 in the property which is in the ownership of the petitioners and to pay the sum of Rs.1,91,75,000/- (One Crore Ninety One Lakhs Seventy Five Thousand Only) being the income derived by the respondents from the wrongful exploitation of the property owned by the petitioners, to render accounts for the income earned being the Wakf-Alal-Aulad 1/3rd extent of the property as earned and to the rendition of the accounts for the same.

2.The learned counsel appearing for the petitioners submitted that the disputed property belong to the private individuals. Earlier



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Wakf Board declared that the entire property as Wakf property and the same was challenged by the petitioners grandfather before the City Civil Court and the City Civil Court declared 2/3rd property belong to the individual property in which the respondents 1 and 2 parked their vehicle and mis-used the petitioners property.

3.The learned counsel appearing for the petitioners further submitted that already the title was declared by the Courts in various litigations. The only issue involved in this writ petition is whether the petitioners are entitled for damages. The learned counsel further submitted that the respondents 1 and 2 parked the vehicles in the land belonging to the petitioners and hence, the petitioners are entitled to claim damages. Hence, this Court may without going into the merits of the case, grant liberty to the petitioners to approach the competent civil Court for claiming damages as against respondents 1 and 2.

4.In view of the above, this Court without going into the merits of the case, grant liberty to the petitioners to approach the competent civil Court for claiming damages as against respondents 1 and 2. The period during which the writ petition was pending before this Court is excluded for the purpose of limitation.



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M.DHANDAPANI,J.
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5.This writ petition is accordingly disposed of. No costs.

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Speaking Order/ Non Speaking Order

Index: Yes/ No

Internet: Yes/ No

To

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Rep. by its Chief Executive Officer
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