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W.P.No.18195 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.18195 of 2014

M.Balamurugan

... Petitioner

Vs.

1. The Chairman,
Tamil Nadu Wakf Board,
No.1, Jaffar Sirang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

2. M.S. Abdul Bari,
The President,
Anwarsha Idhka Wakf Managing Committee,
Panruti,
Cuddalore District – 607 106.

3. Y. Mohammed Kuthooos,
The Secretary,
Anwarsha Idhka Wakf Managing Committee,
Panruti,
Cuddalore District – 607 106.

4. M. Kamalakannan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the 1st respondent to consider the petitioner's representation dated 31.08.2013 for cancelling the rental agreement dated 22.03.2012 of the respondents 2 & 3 with the



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4th respondent.

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For Petitioner : Mr.G.Mohan
for M/s.S.Kumara Devan
For Respondents : No appearance [R1 & R4]
Mr.Sharbath Ali [R2 & R3]

ORDER

This Writ Petition has been filed seeking for a Writ of Mandamus, to direct the 1st respondent to consider the petitioner's representation dated 31.08.2013 for cancelling the rental agreement dated 22.03.2012 of the respondents 2 and 3 with the 4th respondent.

2. The case of the petitioner is that, his father doing the business of Jute Bags buying and selling in a land comprised in 1500 sq.ft. which is owned by the Anwarsha Idhka Mosque, Panruti and situated at Anwarsha Nagar 1st Street. On 23.01.1995, the 2nd respondent entered into a rental agreement with the petitioner's father and thereafter, petitioner's father made a request to the 2nd respondent to transfer the rental agreement of the above said land to his name. After accepting his request, the 2nd respondent herein entered into a rental agreement with the petitioner on 22.02.2011. Then onwards the petitioner is in peaceful possession and doing his family business. Thereafter, the 2nd respondent unilaterally



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without any notice to the petitioner wantonly entered a new rental agreement with the 4th respondent. Without giving any notice to the petitioner, the respondents 2 and 3 without terminating his rental agreement, had entered into a rental agreement with the 4th respondent on 22.03.2012, which is against the law and on facts. Hence, the petitioner and his father sent representations to the 1st respondent to take action against the 2nd respondent and requested to remove the encroachers from the land owned by the Anwarsha Idhka Mosque. Since the said representation was not considered, the present writ petition is filed before this court for appropriate orders.

3. Learned counsel appearing for the petitioner submitted that, as per the provisions of The Wakf Act, the 2nd respondent has no power to terminate a rental agreement without any notice. If the petitioner is a defaulter in paying the rent, the 2nd respondent should have sent a notice against the petitioner and should have given sufficient time to the petitioner for making the defaulted rent, however, in the present case, the 2nd respondent neither sent any notice nor received the rent for the period 2013 from the petitioner. Further, as per the provisions of the Wakf Act, 1995, the 2nd respondent is the authority to terminate any rental agreement



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entered by the petitioner with any defaulter. However, in the present case, the 2nd respondent wantonly with the intention to terminate his rental agreement wantonly refused to receive the rent. Instead without giving any notice had terminated the agreement, which is against the principles of natural justice and violates Article 19(1)(g) of the Constitution of India. Accordingly, he prays for appropriate orders.

4. Learned counsel appearing for the respondents 2 and 3 submitted that, since the petitioner had claimed that there is a rental agreement between himself and the 2nd respondent, he has to workout his remedy before the Wakf Tribunal or civil court. Without doing so, filing the present writ petition is not sustainable. Accordingly, he prays for dismissal of this writ petition.

5. In view of the above submissions made by the learned counsel appearing for the respondents 2 and 3, this court, without going into the merits of the case, grants liberty to the petitioner to workout his remedy either before the Wakf Tribunal or competent Civil Court in the manner known to law.



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6. With the above liberty, this writ petition is dismissed. No costs.

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Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
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To

The Chairman,
Tamil Nadu Wakf Board,
No.1, Jaffar Sirang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.



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M.DHANDAPANI, J.

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