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W.P.No.20459 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2024

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

**W.P.No.20459 of 2020 &
W.M.P.No.25236 of 2020**

Ezhilrani

... Petitioner

Vs.

1. The Tamilnadu Wakf Board
rep. By its Chairman,
No.1,Jaffer Syrang Street,
Mannady, Chennai – 1

2. Thattanchavady Masjira Mubarakka
rep. By its Muttawalli,
Thattanchavadt, Panruti,
Cuddalore District

3. Thattanchavady Masjira Mubarakka
rep. By its Secretary
Thattanchavady, Panruti
Cuddalore District

4. Thiyagarajan
**4th respondent impleaded vide order dated
02.04.2024 in W.M.P.No.1150 of 2021**

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for
issuance of Writ of Mandamus directing the respondents to consider the
representation dated 15.12.2020 and pass orders.

For Petitioner : Mr.T.Siddiq

For Respondents : Mr.Haja Mohideen Gisthi for R1 to R3



W.P.No.20459 of 2020

Mr.S.K.Chandrakumar for R4

ORDER

The present Writ Petition has been filed for issuance of Writ of Mandamus directing the respondents to consider the representation dated 15.12.2020.

2. The brief facts of the case as averred by the petitioner is as follows:-

(i) The petitioner is the resident of the subject property for several years. The said land belongs to Thattanchavady Masjira Mubarrakka and the petitioner's husband was given leasehold right to the landed property to an extent of 0.58.0 hectares comprised in S.No.112/1A situated at Anguchettypalayam village, Pudupettai, Cuddalore District by a lease deed dated 19.09.1998.

(ii) Further, the petitioner's husband made an arrangement to each of his family to enjoy half of the leasehold lands and in this regard, the petitioner's husband has given a written consent letter in favour of the petitioner on 03.04.2009, despite of the same, the 4th respondent obtained lease agreement from Thattanchavady Masjira Mubarakka for the entire lands and when it was questioned, the 4th respondent informed that separate lease agreement would be given after some time, but so far the



W.P.No.20459 of 2020

same is not materialized.

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(iii) Further, the 4th respondent started giving all sorts of troubles to grab the entire leasehold property and therefore, police complaints have been preferred by the petitioner, but there was no response and the police authorities have advised to the 4th respondent. However, the 4th respondent tried to assault the petitioner and dispossess the petitioner from the half portion of the leasehold lands and the same was resisted. Therefore, the petitioner filed a suit in O.S.No.106 of 2020 for bare injunction and another suit in O.S.No.34 of 2019 for default of payment of rent by the 4th respondent. Further, a written representation was submitted to the respondents in-person on 15.12.2020 requesting them not to grant leasehold right to the said Thiagarajan with respect to the entire extent of 0.58.0 hectares as the petitioner's request to issue separate leasehold right to half portion of the said lands in her favour is pending for long time. However, the same has not been considered, hence this petition.

3. The learned counsel for the respondents 1 to 3 submits that the Thattanchavady Masjid E Mubarakka, is an unregistered Wakf, even if the Waqf is unregistered, the provisions of the Waqf Act applies as reflected in Judgment dated **16.10.2015 in W.P.(MD) No.10408 of 2015**, which states that **“Whether a Waqf is registered or unregistered is totally**



W.P.No.20459 of 2020

immaterial to apply the provisions of the Waqf Act, since the provisions of the Waqf Act will apply to all the Waqfs whether it is registered or unregistered.”

4. It is also the contention of the learned counsel for the respondents 1 to 3 that no person can occupy and claim right over the Wakf property without valid lease deed and any person occupying the property without a valid lease deed is an unauthorised occupant of the said property and he is liable to be vacated and handover the possession to the Wakf. As per Section 56 of the Wakf Act, 1995, there is a restriction on grant of lease.

5. Further, the learned counsel for the respondents would also submit that the representation has not been given to the respondents and a direction may be issued to the petitioner to submit a fresh representation to the respondents 1 to 3 and thereafter, the same will be considered by the authorities in accordance with law within a stipulated time granted by this Court.

6. Taking into consideration of the facts and circumstances of the case and without going into the merits of the matter, there shall be a direction to the respondents 1 to 3 to consider the representation to be submitted by the petitioner and deal with the same strictly in accordance



W.P.No.20459 of 2020

with law and pass appropriate orders after providing opportunity to the parties, within a period of sixteen weeks from the date of receipt of a representation of the petitioner.

In view of the above, the present Writ Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

02.04.2024

Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order
ssd

To

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W.P.No.20459 of 2020

V.BHAVANI SUBBAROYAN J.

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W.P.No.20459 of 2020



WEB COPY



W.P.No.20459 of 2020

02.04.2024