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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2024

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THE HON'BLE MR. JUSTICE M.DHANDAPANI

**W.P. No. 27104 of 2024
and W.M.P. Nos. 29625 & 29626 of 2024**

H.Haji Mohamed

... Petitioner

-VS-

1. The Tamil Nadu Wakf Board,
Rep. By its Chief Executive Officer,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai-1.

2. The Chief Executive Officer,
Tamil Nadu Wakf Board,
Vallal Seethakathi Nagar,
Chennai-1.

3. S.Abdul Kadher

4. S.M.Sheik Dawood

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the executive order dated 13.06.2024 and the resolution dated 14.02.2024 passed by the first and second respondents in Na.Ka.No.4467/13/B7/Nagai and quash the same, consequently, direct the respondents 1 & 2 to appoint the petitioner as sole Muthawalli of the Wakf as per the proforma and the registered wakf deed dated 16.12.1904.



For Petitioner : Mr. Y.Kajavavas

For Respondents : Mr. Mohammed Fayaz Ali

ORDER

The petition has been filed to quash the impugned order passed in connection with the executive order dated 13.06.2024 and the resolution dated 14.02.2024 passed by the first and second respondents in Na.Ka.No.4467/13/B7/Nagai and consequently, direct the respondents 1 & 2 to appoint the petitioner as sole Muthawalli of the Wakf as per the proforma and the registered wakf deed dated 16.12.1904.

2. The case of the petitioner is that on 16.12.1904, the original founder of the wakf one Sikkandar Rowthar executed the registered wakf deed. On 22.12.2023, the 4th respondent was appointed as the manager of the Wakf contrary to the wakf deed, proforma of the wakf and usage and customs of the wakf. On 29.01.2024 the petitioner made a representation to the first respondent to remove the respondents 3 & 4 in the post of joint muthavalli and the manager, since the 3rd respondent is permanently working at Dubai. The first respondent, without conducting enquiry, appointed the 4th respondent as Muthawalli of the wakf. Challenging the said order, the petitioner has filed the present writ petition before this court seeking appropriate remedy.



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3. Learned counsel for the petitioner submitted that there is no jurisdiction to the respondents 1 & 2 to appoint the third party as Muthawalli of the wakf. Hence, the impugned order passed by the said respondents has to be quashed and to allow the writ petition.

4. Learned Standing Counsel appearing on behalf of the respondents submitted that there is an effective appeal remedy available before the Wakf Tribunal as against the order passed by the respondents. Hence, the claim made by the petitioner cannot be considered before this Court.

5. Heard the learned counsel on either side and perused the materials available on record.

6. As rightly pointed out by the learned counsel for the respondent, as against the order passed by the respondents 2 & 3, there is an effective alternative remedy available before the Wakf Tribunal. Without filing an appeal before the Wakf Tribunal, the petitioner has filed the present writ petition, which is not sustainable one.



7. Accordingly, this writ petition is dismissed. No order as to costs.

Consequently, connected miscellaneous petitions are closed. However, liberty is granted to the petitioner to work out his remedy in the manner known to law. The respondents are directed to communicate a copy of the order to the petitioner forthwith.

20.09.2024

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Index: Yes/No

To

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M.DHANDAPANI,J.

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