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C.R.P.Nos.4344 & 4350 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

Civil Revision Petition Nos.4344 & 4350 of 2022

and

Civil Miscellaneous Petition Nos.22896 & 22904 of 2022

CRP No.4344 of 2022

Mubeen Aamina

... Petitioner

Vs

1. The Tamil Nadu Waqf Board,
rep. By its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai 600 001.
2. The Chairman,
The Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai-1.
3. The Election Officer/ Superintendent of Waqfs,
Chennai Zone, No.139, Dr.Besant Road,
Ice House, Triplicane, Chennai – 5.
4. H. Mohammed Castle,



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3rd Floor, New No.128, Old No.131,
Barakka Main Street, Nammalwarpet,
Chennai -12.

5. Syed Kasim Sakaaf
 6. Syed Ajaz Ahmed
 7. H.W.Shanaaz
 - 8.H. Gayaz Ali
 9. Haseena Bi
 10. Syed Mazhar Hussain
 11. Syeda Ghousia Begum
 12. Showkath Jahan
 13. Syed Latheef
 14. G.M.Syed Fast Mohammed
 15. Shabana Ayesha
 16. Fathima Begaum
 17. Syed Thula Basha
 18. S.A. Rahman
 19. Syed Faizullah
 20. Syed Akthar Hussain

 21. The Secretary,
Dadashamakkan Waqf,
Perambur, Chennai -12

 22. Habeebunnissa Begaum
- CRP No.4350 of 2022**

... Respondents



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Syed Mazhar Hussain

... Petitioner

/vs/

1. The Tamil Nadu Waqf Board,
rep. By its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai 600 001.
2. The Chairman,
The Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 1
3. The Election Officer/ Superintendent of Waqfs,
Chennai Zone, No.139, Dr. Besant Road,
Ice House, Triplicane, Chennai – 5.
4. H. Mohammed Castle
5. Syed Kasim Sakaaf
6. Syed Ajaz Ahmed
- 7.H.W. Shannaz
8. H. Gayaz Ali
9. Mubeen Aamina
10. Haseena Bi
11. Syeda Ghousia Begum
12. Showkath Jahan
13. Syed Latheef
14. G.M.Syed Fasi Mohammed
15. Shabana Ayesha
16. Fathima Begum
17. Syed Thula Basha
18. S.A.Rahman
19. Syed Faizullah



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20. Syed Akthar Hussain

21. The Secretary,
Dadashamakkan Waqf
Perambur, Chennai -12.

22. Miss. Habeebunnissa Begum

.... Respondents

Prayer in both cases : Both the Civil Revision Petitions have been filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 19.12.2022 made in I.A.No.605 of 2022 in O.A.No.31 of 2022 on the file of the Tamil Nadu Waqf Tribunal, Chennai.

For Petitioners
in CRP 4344/2022

: Mr. N.A.Nizzar Ahmed,
Senior Counsel,
for Mr.S.V.Pavithiran

For Petitioners
in CRP 4344/2022

: Mr. N.A.Nizzar Ahmed,
Senior Counsel,
for Mr.I.Kowser Nizzar

For respondents
in both CRPs

: Mr.C.Shankar,
for R1 & R2

COMMON ORDER



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Challenging the order passed by the Tamil Nadu Waqf Tribunal at Chennai in I.A.No.605/22 in O.A.No.31 of 2022, the Civil Revision Petitions have been filed.

2.The facts of the case is that election was conducted on 03.10.2021 by the 3rd respondent. After completion of election process, the superintendent of Waqfs/Election Officer, Chennai, 3rd respondent, by proceedings dated 08.10.2021 and 12.10.2021 declared 14 persons were elected. Aggrieved over the same, Janab Syed Dula Basha and 7 others made representation to the Board/1st respondent stating that the Election Officer has failed to comply with clause 9 and 12 of the Bye Law of the Waqf. The first respondent/the Tamil Nadu Waqf Board, by its proceedings dated 03.12.2021, ordered fresh election. Challenging the same, Syed Mazhar Hussain, the petitioner in CRP.4350 of 2022, filed a writ petition in W.P.No.26402 of 2021 and the same was dismissed on 06.04.2022 dismissed the same with liberty to approach the Wakf Tribunal. Pursuant to the same, he filed O.A.No.31 of 2022 before the Tribunal to set aside the order of the first respondent dated 03.12.2021 and the resolution dated 28.12.2021 as null and void. Pending O.A.No.31 of 2022, one



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Habeebunnissa Begum, who is the respondent herein, filed an interlocutory application in I.A.No.605 of 2022 to implead her as 22nd respondent in the Original Application and the same was allowed by the Tribunal on 19.12.2022. Aggrieved over the same, both the Civil Revision Petitions have been filed.

3.The learned Senior Counsel appearing for the petitioner in both the petitions submitted that the impugned order passed by the Tribunal is contrary to law. The applicant is the dominus litis and no relief is claimed as against the respondent in the Original Application and she is neither a proper or necessary party to the application and thus, he prays to allow these civil revision petitions.

4.The learned counsel appearing for the respondents submitted that in view of the directions issued by this Court in W.P.No.14935 of 2022, etc., batch, dated 10.10.2022, one Habeebunnissa Begum /22nd respondent had filed the petition in I.A.No.605 of 2022 to implead herself as 22nd respondent in



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O.A.No.31 of 2022. The respondent is one of the contestant in the election which was held on 03.10.2021. The O.A.No.31 of 2022 is arising out of the election dispute. He further submitted that the respondent and others have also filed O.A.No.79 of 2022 challenging the election as per the order of this Court in the writ petition. In that O.A., the petitioner and 5th respondent in CRP No.4350 of 2022, filed I.A.No.723 of 2022 for reject the plaint and the petitioner in CRP No.4344 of 2022 also filed a memo dated 27.12.2022 stating that the rejection of the plaint may be allowed. The respondent has filed I.A.No.605 of 2022 before the Walk Tribunal as per the order of the Hon'ble High Court and hence, the Tribunal has rightly allowed the application and there is no merit in the revision petitions and thus, prays for dismissal of the Civil Revision Petitions.

5. I have considered the matter in the light of the submissions made by the learned counsel on both sides and perused the materials available on records carefully.

6. On perusal of the records, it reveals that election was conducted on



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03.10.2021 by the 3rd respondent. After completion of election process, the superintendent of Waqfs/Election Officer, Chennai, 3rd respondent, by proceedings dated 08.10.2021 and 12.10.2021 declared 14 persons were elected. Aggrieved over the same, Janab Syed Dula Basha and 7 others made representation to the Board/1st respondent stating that the Election Officer has failed to comply with clause 9 and 12 of the Bye Law of the Waqf. On that representation, the first respondent/the Tamil Nadu Waqf Board, ordered re-election on 03.12.2021. Challenging the same, Syed Mazhar Hussain, the petitioner in CRP.4350 of 2022, filed a writ petition in W.P.No.26402 of 2021 and the same was dismissed on 06.04.2022 to approach the Wakf Tribunal. Pursuant to the same, he filed O.A.No.31 of 2022 before the Tribunal to set aside the order of the first respondent dated 03.12.2021 and the resolution dated 28.12.2021 as null and void. Pending O.A.No.31 of 2022, one Habeebunnissa Begum, who is the respondent herein, filed an interlocutory application in I.A.No.605 of 2022 to implead her as 22nd respondent in the Original Application and the same was allowed by the Tribunal on 19.12.2022. Aggrieved over the same, both the Civil Revision Petitions have been filed.



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7.The above said facts has not been disputed by the parties. The only objection is that the issue before the Tribunal is whether Wakf Board has got jurisdiction to set aside the election of the Waqf, which was held on 03.10.2021. It is not disputed that the proposed parties including the petitioner are beneficiaries of the Wakf proceedings No.619/99/B9/Chen, dated 03.12.2021. The petitioner being a beneficiary, she may be permitted to participate in the question of jurisdiction of the Wakf Board to set aside the election. Therefore, the Tribunal rightly allowed the proposed party and implead as respondent. Though the petitioner and other person had filed another application in O.A.No.79 of 2022 for declaration with regard to the election conducted on 03.10.2021 and hence, it is not in dispute that both the Original applications, viz., O.A.No.31 of 2022 and O.A.No.79 of 2022 relates to the election process and it is subsequent proceedings. Hence, as rightly stated by the Tribunal, the issues involved in both the Original Applications are different but intertwined. Therefore, I find no irregularity or infirmity in the impugned order passed by the Tribunal and no ground for interference with the impugned order and I find no merit in the revisions.



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8. Accordingly, both the Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Index: yes/no
Internet:yes/no
mrp

22.01.2024

To
The Tamilnadu Wakf Tribunal,
Chennai.



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V. SIVAGNANAM, J.

mrp

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