



W.P.(MD) No.1829 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.1829 of 2024
and
W.M.P.(MD) No.1823 of 2024**

Thahar Nagar Muslim Jamat,
16, Thahar Nagar,
Kareumanadapam,
Trichy -1, Trichy District,
represented by its President,
Tharik Mohamed

... Petitioner

/vs./

1.District Revenue Officer/Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jafer Syrang Street,
Vallal Seethakathinagar,
Chennai -1.

2.Wakf Superintendent,
No.8/124, Kayithemillaeth Road,
Palakkarai,
Trichy -8.



W.P.(MD) No.1829 of 2024

WEB COPY

3.M.S.H.Iqbal

*(R3 has been impleaded vide
order dated 03.10.2024)*

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the proceedings of the first respondent in Na.Ka.No.16325/23/Aa 5/Trichy dated 20.12.2023 and quash the same.

For Petitioner : Mr.G.M.Xavier

For R1 & R2 : Mr.D.S.Haroon Rasheed

For R3 : Mr.K.Navaneetharaja

ORDER

The writ petition has been filed for the issue of a Writ of Certiorari to call for the records pertaining to the proceedings of the first respondent in Na.Ka.No. 16325/23/Aa 5/Trichy dated 20.12.2023 and to quash the same.

2. Even though the impugned order refers to Section 36 of the Wakf Act, 1995 from the proceeding that had been initiated by the first respondent, it could be seen that the proceedings under Section 40(3) of the Act had been initiated.



W.P.(MD) No.1829 of 2024

WEB COPY

The said provision indicates that when it can come to the knowledge of the Board, then a Trust or a Society, which is in possession of the property, which could be deemed to be a Wakf property, shall issue a notice and hold an enquiry as regards to the nature of the property and if it is found that such property is a Wakf property, then the notice shall be issued to the said Trust or Society either to register such property under the Act as Wakf property or to show cause as to why such property should not be registered.

3. In the present case, an enquiry had been originally made, in which the petitioner had also submitted a detailed explanation on 08.07.2023, but however the Board had resolved on 20.12.2023 that the nature of the property is a Wakf property and therefore, the present notice had been issued directing the petitioner to register the property as Wakf property under the provisions of Section 30(6) of the Act, failing which appropriate action would be initiated.

4. Even though the said notice may not be in terms as provided under Section 40(3) of the Wakf Act, 1995, considering the fact that the petitioner had approached this Court challenging the said notification, it could imply that they



W.P.(MD) No.1829 of 2024

WEB COPY

are not wanting to register the property as a Wakf property as per the Act. When that is the case, it is imperative that they should also show cause as to why such property should not be so registered.

5. In such circumstances, the order impugned herein shall be treated as a show cause notice to show cause as to why the property should not be registered as Wakf property and the petitioner shall submit his explanation to the Wakf Board within a period of 8 weeks from the date of receipt of a copy of this order and it is open for the Wakf Board to pass appropriate orders thereafter.

6. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No
Internet : Yes / No
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06.11.2024



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W.P.(MD) No.1829 of 2024

K.KUMARESH BABU, J.

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W.P.(MD) No.1829 of 2024

06.11.2024