



W.P.(MD) No.8922 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2024

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.8922 of 2024

and

W.M.P.(MD) No.8114 of 2024

1.M/s.Atlas Textiles Export Pvt. Ltd.,
Represented by its Managing Director
Mr.M.Nachimuthu,
Having office at Atlas Chamber,
29J, Pugalur Road,
Karur – 639 001.

2.N.Senthil Prasath

... Petitioners

Vs.

1.The Tamil Nadu Waqf Board,
Represented by its Chairman,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Street,
Chennai – 600 001.

2.The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Street,
Chennai – 600 001.

3.S.Sheik Ismail.



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4.Thirumanilayur Pallivasal Waqf,
Represented by its Muthavalli,
Thirumanilaiyur,
Karur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari calling for the records pertaining to the order of the second respondent in Pro.C.No.10395/22/B5/Karur dated nil .10.2023 and quash the same.

For Petitioners : Mr.A.Mohamed Ismail

For R1 & R2 : Mr.K.Jeyamohan
Standing Counsel

ORDER

Mr.K.Jeyamohan, learned Standing Counsel, takes notice for the first and second respondents.

2. This Writ Petition is disposed of, at the time of admission, after hearing the learned counsel for the petitioners and the learned Standing Counsel for the first and second respondents and after dispensing with the notice on the third and fourth respondents as no adverse orders are proposed to be passed against them.



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WEB COPY 3. The petitioners have challenged the undated impugned order bearing reference Pro.C.No.10395/22/B5/Karur.

4. The first petitioner claims to have purchased the property from one Chenniappan and R.Murugesan *vide* a sale deed dated 10.10.1990. The second petitioner claims to have purchased the property from one K.S.Syed Mohamed Basha and 20 others *vide* a sale deed dated 03.09.2003. The case of the petitioners is that the third respondent had obtained an order dated 17.04.2023 from this Court in W.P.(MD) No.8613 of 2023 without impleading the petitioners to enquire into the ownership of the properties purchased by the respective petitioners on the aforementioned dates.

5. It is submitted that pursuant to the aforesaid order of this Court dated 17.04.2023 in W.P.(MD) No.8613 of 2023, the second respondent has now passed the impugned order, wherein, the second respondent has practically concluded that the property purchased by both the petitioners was that of the fourth respondent Waqf and that once if it is a waqf's property, it is always the waqf's property and therefore, the sale deeds



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executed in favour of the respective petitioners dated 10.10.1990 and 03.09.2003 respectively are nullity.

6. It is further submitted that the impugned order signed by the second respondent Chief Executive Officer of Tamil Nadu Waqf Board is not only contrary to the order passed by this Court in W.P.(MD) No.8613 of 2023 on 17.04.2023 but also contrary to Section 52 of the Waqf Act, 1995. The learned counsel for the petitioners would place reliance on Section 7 of the Waqf Act, 1995 which deals with the power of the Tribunal to determine the disputes regarding auqaf.

7. It is submitted that the issue in respect of the land in question covered by both the sale deeds dated 10.10.1990 and 03.09.2003 was also escalated before the Sub-Collector, Theni and the Sub-Collector in his proceedings dated 07.01.1961 had cleared the title in favour of the predecessors of the petitioners' vendors.

8. A further reference is made to the Judgment and Decree dated 18.11.1971 passed by the learned District Munsif in O.S.No.170 of 1963 filed by the predecessors of the petitioners' vendors. The said suit was



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decreed in favour of the predecessors of the petitioners' vendors. It is submitted that the said Judgment and Decree dated 18.11.1971 passed by the learned District Munsif in O.S.No.170 of 1963 has not been appealed by the respondents and therefore, the impugned order is liable to be quashed. It is further submitted that in the aforesaid proceedings, the Special Officer for Wakfs was the second defendant. It is further submitted that since the issue had attained finality, the impugned order is unsustainable.

9. That apart, the learned counsel for the petitioners would draw attention of this Court to the notice issued to the petitioners on 20.10.2023 after the impugned order was passed by the second respondent, pursuant to which, the petitioners have appeared before the first respondent board. However, thereafter, till date, no notice has been served.

10. The learned Standing Counsel for the first and second respondents would submit that this Writ Petition is not maintainable as there is no finality in the impugned order of the second respondent Chief Executive Officer of the Tamil Nadu Wakf Board. It is submitted that the reference to Addressee No.5 i.e., Superintendent of Waqf, W1, Trichy is



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to serve copies and report compliance and is merely intended to serve copies on the petitioners and to place the issue before the Board and therefore, there is no finality on the issue. It is further submitted that Section 52 of the Waqf Act, 1995 in any event will act as a bar against the petitioners claiming rights over the waqf's properties which were entered in the Waqf Register and in the proforma.

11. That apart, it is submitted that in case the petitioners are aggrieved by any entry in the Waqf Register regarding the property as waqf's property, it is for the petitioners to invoke the jurisdiction of the Waqf Tribunal under Section 7 of the Waqf Act, 1995.

12. That apart, the learned Standing Counsel for the first and second respondents would submit that under Section 55-C of the Wakf Act, 1954 [presently Section 85 of the Waqf Act, 1995], there was a bar on a civil court to entertain the suit and therefore, even on this count, the decree obtained by the predecessors of the petitioners' vendors on 18.11.1971 in O.S.No.170 of 1963 was a nullity.



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13. The learned counsel for the petitioners by way of rejoinder would submit that the proceedings had attained finality since no further appeal has been filed against the said decree dated 18.11.1971 in O.S.No. 170 of 1963 and therefore, it is not for the respondents to argue the contrary.

14. I have considered the arguments advanced by the learned counsel for the petitioners and the learned Standing Counsel for the first and second respondents.

15. In my view, the impugned order is merely a part compliance of the order passed by this Court in W.P.(MD) No.8613 of 2023 dated 17.04.2023. As a precaution, the second respondent has taken up an enquiry and has asked the petitioners to respond to the same before the first respondent. Although a reading of the impugned order may give an impression that the finality has been arrived, the order has to be eventually passed by the first respondent Wakf Board as is contemplated in the aforesaid order of this Court dated 17.04.2023 in W.P.(MD) No.8613 of 2023 and in terms of Section 52 of the Waqf Act, 1995. In fact, the petitioners have also been issued with the notice of hearing by the Waqf



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Board on 20.10.2023 to which the petitioners appear to have responded.

However, the enquiry is yet to be completed.

16. Under these circumstances, this Writ Petition is disposed of by directing the first respondent to complete the enquiry pursuant to the order passed by this Court in W.P.(MD) No.8613 of 2023 dated 17.04.2023 and pass orders uninfluenced by any of the observations made in the impugned order of the second respondent, within a period of 8 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petition is closed.

10.04.2024
(3/3)

Index: Yes / No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order

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Copy To:

1.The Tamil Nadu Waqf Board,
Represented by its Chairman,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Street,
Chennai – 600 001.



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2.The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffar Syrang Street,
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C.SARAVANAN, J.

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