



W.A(MD)No.1310 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2024

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CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.A(MD)No.1310 of 2024
and
C.M.P(MD)No.10213 of 2024**

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

... Appellant/2nd respondent

-vs-

1.G.Syed Akbar Hasan

... 1st respondent/Writ Petitioner

2.The Tamilnadu Waqf Board,
Rep. By its Chairman,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

... 2nd respondent/1st respondent

PRAYER: Appeal filed under Clause 15 of Letters Patent, against the order
order dated 22.02.2024 in W.P(MD)No.9652 of 2024.

For Appellant :Mr.K.Jeyamohan

For 1st Respondent :Ms.A.Ajmath Begum



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JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

Being aggrieved by the order of the Writ Court, dated 22.02.2024 made in W.P(MD)No.9652 of 2024, the second respondent in the writ petition namely the Chief Executive Officer, Tamil Nadu Waqf Board, is on appeal.

2. Challenge is to the order of the learned single Judge allowing the writ petition filed by the first respondent partially challenging the order dated 02.11.2018 wherein his tenure as Hereditary Trustee was restricted to five years. The Writ Court had only followed the two earlier judgments of this Court in W.P.No.19032 of 2023(Apsar Peeran Shuttari Sahebulla vs. the Tamil Nadu Waqf Board, represented by its Chief Executive Officer, Chennai – 1) dated 23.08.2023 and in W.P(MD)No.18162 of 2000(Subhan vs. Executive Officer, Waqf Board). In both the judgments, this Court had held that appointment of a Hereditary Mutawalli for a particular period is bad.

3. The learned counsel for the appellant would however contend that there is a complaint of mismanagement by the first respondent herein by his own brother and the Waqf Tribunal has granted an order of injunction restraining the Waqf Board from extending the period of his appointment.



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4. We have been taken through the order of the Waqf Tribunal also.

We are unable to approve the order of the Tribunal inasmuch it runs counter to the very concept of Hereditary Mutawalliship. Hereditary Mutawalliship shall always be for life. Once it is found that the order limiting the period of appointment is bad, there is no question of extension. If there is no question of extension, the order of the Waqf Tribunal cannot be enforced.

5. We, therefore, of the opinion that the order of the Writ Court does not need interference at our hands. However, since there is a complaint of mismanagement by the first respondent, we leave it open to the Waqf Board to take appropriate action under Section 64 of the Waqf Act, 1995, which empowers the Wakf Board to remove the Mutawalli if he is guilty of any of the grounds mentioned in Clauses (a) to (k) of Sub-Section 1 of Section 64 of the Waqf Act.

6. This writ appeal is dismissed subject to the above observation.
No Costs. Consequently, connected Miscellaneous Petition is closed.

[R.S.M., J.]

[L.V.G., J.]

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NCC :Yes/No

Index :Yes/No



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PM

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