



C.R.P(MD)No.1090 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.07.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.1090 of 2018

and

C.M.P(MD)No.4726 of 2018

Syed M.Fakruddin (Died)

Bilal Abdullah

... Petitioner/
LR of deceased Sole Petitioner

Vs.

1.Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Behind Custom House,
Vallal Seethakathi Nagar,
Parrys,
Chennai-600 001.

S.M.Buseer Mohaideen (Died)

2.M.A.Mohammed Jamaluddin

... Respondents/Respondents

3.M.A.S.Mohamed Jakkariah

... 3rd Respondent

*(3rd Respondent is impleaded vide Court
order, dated 07.06.2024 made in
C.M.P(MD)No.6401 of 2024 in
C.R.P(MD)No.1090 of 2018)*

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*(Cause-title accepted vide Court order,
dated 04.06.2018 made in C.M.P(MD)No.
4361 of 2018 in C.R.P(MD)SR.No.11780 of
2018)*

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the judgment and decree, dated 13.07.2015 made in W.O.P.No.3 of 2005 on the file of the Wakf Tribunal, (Sub-Court, Ramanathapuram) and allow the Civil Revision Petition as prayed for.

For Petitioner : Mr.V.George Raja

For R-1 : Mr.Haroon Rashid

R-2 : Died

For R-3 : Mr.J.Barathan

ORDER

The present revision petition has been filed by the petitioner in Wakf O.P.No.3 of 2005 on the file of the Wakf Tribunal, Sub Court, Ramanathapuram, challenging the dismissal of the said petition by an order, dated 13.07.2015.

2. The revision petitioner herein as petitioner had filed the above Wakf O.P for a declaration that, he is entitled to administer the School and the properties of Sadhakkathul Jaria School as per the Wakf Nama,



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dated 27.07.1928. He had further sought for a prayer for a declaration that he is entitled to form a Committee to manage the properties as per the wakf deed, dated 27.07.1928. The petitioner has further prayed for a declaration that, the third respondent or anyone claiming under him shall not have any right to administer the above said School and its properties.

3. The Wakf Board has filed a counter contending that touching upon the same issue, they have passed an order on 10.06.2004, in which, the petitioner in Wakf O.P was a party. Without challenging the said order, the present Wakf O.P is not maintainable. The third respondent has also taken the same stand in his counter.

4. The order of the Wakf Board has been marked as Exhibit B.5 before the Tribunal. The Tribunal after considering the oral and documentary evidence has arrived at a finding that, the order of the Wakf Board is against the petitioner and touching upon the same issues for which prayers have been sought for in the Wakf O.P. Without challenging the order, dated 10.06.2004, the present Wakf O.P is not



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maintainable. On the above said basis, the Wakf O.P has been dismissed by the Tribunal. Challenging the same, the present revision petition has been filed by the petitioner.

5. A perusal of the records indicate that, the Wakf O.P petitioner, as petitioner has approached the Wakf Board seeking right to administer the wakf properties as per the wakf nama of the year 1928. The said request was rejected by the Board and it has directed the Superintendent of Wakf, Ramanathapuram to prepare an electoral roll of the muslim members of the Jamad aged 18 years and above and residing in the said locality and submit the same for approval and a Committee consisting of 6 members of the Management of Sadhakkathul Jaria Wakf, Keelakarai, Ramanathapuram District to be elected by secrete ballot system. Without challenging the said order, the petitioner had approached the Wakf Tribunal seeking an independent prayer that, he is entitled to administer the School and the properties based upon the Wakf Nama, dated 27.07.1928.



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6. As per Section 83 (2) of the Wakf Act, 1995, an order of the Wakf Board has to be challenged before the Wakf Tribunal in a manner known to law by any person interested in the wakf. When the petitioner has not chosen to challenge the order of the Wakf Board, he cannot file an independent O.P before the Tribunal seeking the same prayer. In such circumstances, this Court is of the considered opinion that, the Tribunal has rightly dismissed the Wakf O.P. The learned Counsel appearing for the revision petitioner sought liberty to challenge the order, dated 10.06.2004. The petitioner is at liberty to challenge the said order subject to the law of limitation.

7. With the said observation, this Civil Revision Petition stands dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

04.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

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To

WEB COPY

- 1.The Wakf Tribunal, Sub-Court,
Ramanathapuram.
- 2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



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R.VIJAYAKUMAR, J.

BTR

Order made in
C.R.P(MD)No.1090 of 2018

04.07.2024