



WEB COPY

WP No. 11676 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23-02-2026

CORAM

THE HON'BLE MS. JUSTICE P.T. ASHA

WP No. 11676 of 2024

and

WMP Nos.12766 and 12771 of 2024

Ahalay Sunnath Jamath Mullah Masjid,
Represented By Its Secretary
Mr.S.Sheik Mustak,
S/o. Mr.Sheik Ameer John,Aiysha Agencies,
Thirukovilur Road,
(opp. To Star Mandapam),
Elavanasurikottai Village And Post,
Ulundurpet, Kallakurichi District -607202.

..Petitioner(s)

Vs

1. The District Collector,
Kallakurichi District -606202.
2. The District Revenue Officer,
Ulundurpet, Kallakurichi District -607202.
3. A.S.Jahangir,
S/o.Khaji, Abdul Saidq, No. 12/145,
Thirukovilur Main Road, Elavanasurkottai
Village And Post, Ulundurpet, Kallakurichi
District -607202.

..Respondent(s)

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records from the First Respondent in so far as it relates to his proceedings in Na.Ka. C-1/01086/2023 dated 08.12.2023 and Quash the said order and forbear the Respondent their men, agents, and subordinates or any one acting on their behalf from in any manner interfering with the Petitioners carrying out



Expansion/re-construction and renovation of the Mosque Building Known as Ahalay Sunnath Jamath Mullah Masjid in Mulla Street, in R.S.No. 453/26(Old) and R.S.No. 803/2,3,4,5,6(New) in Elavanasur kottai village and post, Ulundurpet Taluk, Kallakurichi District in pursuant to the Planning permission issued by pidagam panchayat dated 28.01.2022 and clarification issued by the government of Tamilnadu in its letter dated 07/03/2024.

For Petitioner(s): Mr.J.Rajakalifulla, Senior Counsel
for Ms.R.Poornima

For Respondent(s): Mr.S.Rajesh, Government Advocate for R1 and R2
Mr.Thiyagarajan, Senior Counsel
for Mr.S.Ramesh Kumar For R3

ORDER

This writ petition has been filed to call for the records from the First Respondent in so far as it relates to his proceedings in Na.Ka. C-1/01086/2023 dated 08.12.2023 and Quash the said order and forbear the Respondent their men, agents, and subordinates or any one acting on their behalf from in any manner interfering with the Petitioners carrying out Expansion/re-construction and renovation of the Mosque Building Known as Ahalay Sunnath Jamath Mullah Masjid in Mulla Street, in R.S.No. 453/26(Old) and R.S.No. 803/2,3,4,5,6(New) in Elavanasur kottai village and post, Ulundurpet Taluk, Kallakurichi District in pursuant to the Planning permission issued by Pidagam panchayat dated 28.01.2022 and clarification issued by the government of Tamilnadu in its letter dated 07/03/2024.



2.It is the case of the petitioner that the issue relates to the Mosque known as ‘Ahalay Sunnath Jamath Mullah Masjid’ in Mulla Street, in R.S.No.453/26 (old) and R.S.No.803/2,3,4,5,6 (New) in Elavanasurkottai Village and post, Ulundurpet Taluk, Kallakurichi District. The petitioner would submit that this Mosque was functioning for over 100 years. Originally, the mosque was a thatched shed and over the years, with a contribution of the Jamathdars, improvements were made and a regular construction was made after obtaining necessary permission from the authorities.

2.1.It is the case of the petitioner that the Mosque is administered by a committee headed by Muthavalli who has been duly elected in a General Body. As on date, there are over 500 worshippers who constitute the General Body and for the last six decades, the management has passed on through 10 Mutavalli’s elected in the General Body annually. The petitioner would submit that one Abdul Samath and his brother Abdul Sadiq who is the father of the third respondent and others have been Mutavalli before 1986. Thereafter, one Rahmathullah was elected as Mutavalli and he had relinquished office on account of his failing health.

2.2.Thereafter, the third respondent was elected as Muthavalli in 2013 and continued in office till 2015. It is the contention of the petitioner that when the third respondent wanted to be the Mutavalli in 2013, the General Body was



skeptical on account of his past conduct. Further, the petitioner had prevailed upon the General Body and the third respondent was elected as Mutavalli in the year 2013. Thereafter, his entire attitude and conduct had changed and he started manipulating the records and illegally transferring the properties of the Mosque in his name and in the name of his relatives. Apart from that, he had illegally carried out siphoning of funds. The third respondent further contended that the Mosque is a private property and that he is the hereditary Mutavalli. When these acts were brought to the notice of the Jamathdars, proper action was taken to restore the patta and revenue records in the name of Mutavalli and the third respondent was removed from the Mutavalli post.

2.3.Subsequently, one Jahirullah Khan and thereafter, one Syed Hameed were elected as Mutavallis and they continued to deal with the same. As against the restoration of the revenue records, the petitioner had filed a writ petition in W.P.No.27992 of 2015. This writ petition was disposed of directing the revenue officials to maintain the entries as it existed in the year 2013.

2.4.Thereafter, due to heavy rain and floods, the Mosque developed cracks and was becoming unfit for human habitation and that apart, there was a space crunch owing to heavy footfall. Therefore, the General Body had unanimously decided to alter the existing structure and re-construct the Mosque. They had therefore, applied to the Pidagam Panchayat for alteration/demolition



and reconstruction with all the requisite papers, plan and charges. By an order dated 22.01.2022, permission was granted by the said Panchayat, taking into consideration the fact that the Mosque has been in existence for over 100 years.

2.5.The petitioner would submit that to alter or reconstruct the mosque, No Objection Certificate (hereinafter referred as “NOC”) from the first respondent is not required. In fact, the petitioner had applied to the first respondent and on his directions, a public meeting was conducted by the second respondent. Thereafter, when it was informed that it was only an alteration, repair and reconstruction in the same property, the first respondent had not raised any objections. The petitioner had proceeded to put up the construction.

2.6.The third respondent disgruntled by the fact that he had been removed from the office of the Mosque started a new Mosque adjacent to the present Mosque by putting a shed and elected himself as its Mutavalli. This Mosque was being run without obtaining an NOC from the first respondent. The third respondent is using the same name as ‘Ahalay Sunnath Jamath Mullah Masjid’ and by printing letter heads and receipt books, he is collecting huge amounts of contribution by masquerading as the petitioner Jamath. The third respondent has been creating disturbances and hurdles during meeting of the General Body and near the Mosque. He had also filed a suit in O.S.No.192 of 2019 on the file of the Additional District Munsiff Court, Ulundurpet, praying for a declaration of



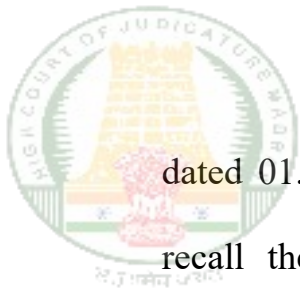
his pre-existing right as Mutavalli, preventing the Mutavalli Syed Hameed from administering the Pallivasal and restraining the defendants from putting up further construction in the Pallivasal. The petitioner herein is the first defendant therein and Syed Hameed was the third defendant. The third respondent had sought for ad-interim injunction by filing I.A.No.708 of 2019 which was not granted and only notice was ordered.

2.7.Meanwhile, the third respondent had filed a writ petition in W.P.No.4452 of 2020 by couching it as the Public Interest Litigation, prayed for a mandamus to direct the District Collector, Kallakurichi District and The Block Development Officer, Ulundurpet, to take action against the Jamath and the Mutavalli for violating the Tamil Nadu Building Rules, 1972, and carrying on illegal construction. The Court had granted interim order of Status Quo just when the construction was nearing completion. The order had been obtained suppressing the true facts and the filing of the suit was also suppressed. In the light of the same, the suit was not progressing. This writ petition was heard and ultimately, by an order dated 10.01.2023, it was disposed of with a direction to the petitioner to submit a fresh application with all documents and on receipt of the same, directed to consider the same, after giving an opportunity to the respondent and petitioner. The first respondent was directed to pass orders within a period of twelve weeks thereafter and till such time, status quo which was already granted was directed to be continued.



2.8.The petitioner would submit that the only issue which arise for consideration in this writ petition is whether a fresh approval is required from the District Collector in terms of Section 4(3) of the Tamil Nadu Panchayat Building Rules, 1997, which does not talk about reconstruction. That apart, it is the contention of the petitioner that the Tamil Nadu Government by a Letter No.4398/L&O.B/2023-03 dated 07.03.2024 has clarified that for renovation/expansion of existing structures used for the purpose of any religious institution, no fresh permission or NOC is required, if the built-up area in the same premises/renovation of the existing religious structure.

2.9.This Court, by an order dated 10.01.2023, had directed the first respondent to consider the application of Syed Hameed and pass appropriate orders. Contrary to this directions, the second respondent issued notice calling upon the petitioner for an enquiry pursuant to the representation dated 06.03.2023 submitted in terms of direction issued in the above writ petition. The Secretary of the Jamath and the Mutavalli had appeared and submitted a preliminary objection regarding the jurisdiction of the second respondent to conduct the enquiry, when it was the District Collector who was directed to hold an enquiry. Ignoring objections, the second respondent has proceeded to pass orders on 15.06.2023 by stating that the law and order problem would arise relating to the suit in O.S.No.192 of 2019. Since the order was not in consonance with the directions of this Court in W.P.No.4452 of 2020, notice



dated 01.08.2023 was issued by the petitioner to the respondents 2 and 3 to recall the order passed by the second respondent dated 15.06.2023. The petitioner is aggrieved by the fact that the notice has been issued to the petitioner for an enquiry on 26.09.2023 without recalling the order passed by the second respondent dated 15.06.2023. The first respondent without conducting an enquiry or inspecting the Mosque has passed the impugned order dated 08.12.2023. Aggrieved by this, the petitioner is before this Court.

3.The fourth respondent has filed a counter affidavit in which he would reiterate that the construction was not an authorized one and constructed without getting valid permission under the Tamil Nadu Combined Development Building Rules, 2019, which originally was under the District Municipalities Act. He would submit that he had filed a comprehensive suit in O.S.No.192 of 2019 and the construction that was being put up was illegal. He would deny the allegations made against him with reference to the misappropriation and misuse of the post of Mutavalli. He would also deny the fact that he is running a separate Mosque without obtaining an NOC from the first respondent. He would state that he has put up the construction in S.No.789/2014 exercising his right to his private land and this cannot be called into question by the petitioner.

3.1.He would also submit that the letter relied upon by the petitioner for not obtaining an NOC was misinterpretation of the said letter. The exemption



from the 'fresh permission' applies only for simple renovation that do not alter the built-up area. Since the existing structure has been demolished and the petitioner has put up new larger construction, they are bound to obtain an NOC.

The issuance of an NOC is different from getting prior permission from the Government under the Tamil Nadu Combined Development Building Rules, 2019. Having participated in the enquiry before the second respondent, the petitioner is now trying to challenge the jurisdiction of the officer and such a stand is untenable. He would submit that even according to the admission of the petitioner in his affidavit, he has stated that the previous structure has been demolished and therefore, it is the case of new construction. The respondent would therefore, pray for the dismissal of the writ petition.

4. Heard the learned counsel on either side and perused the materials available on record.

5. A perusal of the impugned order would indicate that the genesis for the impugned order is the order dated 10.01.2023 made in W.P.No.4452 of 2020 passed by the Hon'ble Division Bench of this Court. This was the writ petition filed by the third respondent seeking a mandamus directing the first and second respondents therein to take action against the petitioner herein stating that they had violated the TamilNadu Building Rules, 1972, and carrying on illegal construction by considering the complaint dated 13.12.2019. This Court had



passed the following order:

“7.Considering the above submission of the learned Senior Counsel appearing for the petitioner as well as learned Senior Counsel appearing for the respondents 3 and 4, the respondents 3 and 4 are directed to give a fresh application to the 1st respondent enclosing all the documents relied on by them before this Court within two (2) weeks from the date of receipt of a copy of this order and on receipt of such application, the 1st respondent is directed to consider the same, after giving opportunity to the petitioner as well as the respondents 3 and 4 and pass orders on merits, within a period 12 weeks thereafter. Till such time, the order of status quo ordered by this Court will continue. It is open to the petitioner, respondents 3 and 4 to produce relevant documents to substantiate their case.”

6.The directions were given to the first respondent District Collector, Kallakurichi District, to consider the application and pass orders on merits after hearing both the parties. In compliance of the said order, the petitioner had made a fresh application to the aforesaid District Collector. However, contrary to the orders passed by this Court, it is the second respondent who has issued the notice of enquiry and held an enquiry and passed the impugned order, in which, despite the orders of this Court, the second respondent had withheld the decision till the disposal of the suit in O.S.No.192 of 2019 by passing the following order:

“எனவே, பிடாகம் கிராமத்தில் உள்ள அக்லே சுன்னத் ஜமாத், முல்லா மசூதியின் கட்டுமான பணிகள் தொடர்பாக பரிகாரம் வேண்டி கீழமை நீதிமன்றத்தில் வழக்கு (O.S.No.192/2019) நிலுவையில் இருந்துவரும் நிலையில் மசூதி கட்டுமானத்திற்கான பின்னேற்பு, அனுமதி வழங்கிட தற்போது வழிவகை இல்லை எனவும், எனவே கீழமை நீதிமன்றத்தில் வழக்கு (O.S.No.192/2019) முடிவுற்ற பின்னரே இது குறித்து



முடிவு செய்திட இயலும் எனவும் இதன் மூலம் ஆணையிடப்படுகிறது.”

7.A perusal of the relief claimed in O.S.No.192 of 2019 would clearly reveal that the suit was filed with reference to the Mutavalliship of the petitioner Mosque, consequential injunction restraining the defendants, their men and agents from in any way preventing the third respondent from performing and administering the day to day affairs of the Pallivasal as a Mutavalli, and from further putting up any construction in the Pallivasal. The schedule of the property was described as follows:

“ DESCRIPTION OF PROPERTY:

The pre-existing right of Muthavalliship of ‘Ahalay Sunnath Jamath Mullah Mosque’ situated at Survey Number: 803/5 of Pidagam Village, Ulundurpet Taluk, Villupuram District.”

8.Though in the plaint, the third respondent would claim right over the property comprised in S.No.803/5, in their reply statement, the plaintiff would submit that he was seeking to establish his right as Mutavalli alone and did not claim any title over the suit Pallivasal. This fact has been reiterated by the plaintiff in paragraphs 5 and 6 of the reply affidavit in O.S.No.192 of 2019. Therefore, it is clear that the suit in O.S.No.192 of 2019 does not pertain to the property comprised in S.No.803/5. Further, from the report of the Tahsildar, it is



seen that the lands comprised in S.No.803/5 stand in the name of the Mosque.

From the photographs produced for the scrutiny of this Court, it was seen that the construction was put up and what remains was only plastering and colour washing of the same.

9.The allegation that the building has been put up without obtaining the NOC remains insignificant in the light of the letter issued by the Secretary to the Government, wherein, Standard Operating Procedure has been issued with reference to the Clause (6) of Annexure XVII to Rule 19 of the Tamil Nadu Combined Development Building Rules, 2019, in which, clause B(iv) states as follows:

“B.RENOVATION I EXPANSION OF EXISTING STRUCTURE:”

iv. No fresh permission (NOC from the Collector) is required for expansion in the built up area in the same premises / renovation of existing religious structures on Private land. This is also applicable for demolition-cum-reconstruction with or without change in area of the existing structure in the same private land.

This, therefore, makes it clear that the expansion/renovation of the existing religious structure on the private land do not require the NOC from the Collector.

10.Further, as contended by the learned counsel for the petitioner directions had been issued to the first respondent to pass orders after holding an enquiry. He had however, delegated the same to the second respondent.



Therefore, the orders passed by the second respondent is contrary to the orders of this Court and therefore, on this score also the same cannot be sustained. The judgment submitted by the learned counsel for the respondents may not be relevant as the subject matter of that writ petition in W.P.No.4452 of 2020 is G.O.Ms.255 dated 18.08.1997 issued by the Rural Development C2 Department, whereas, the petitioner herein is relying upon the letter issued by the Secretary to the Government. Therefore, the impugned order has to be set aside and is accordingly, set aside.

Accordingly, this writ petition is allowed. Consequently, connected miscellaneous petitions stand closed. No costs.

23-02-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
ssa



WP No. 11676 of 2



P.T.ASHA, J.

ssa

WEB COPY

To

1.The District Collector,
Kallakurichi District -606202.

2.The District Revenue Officer,
Ulundurpet, Kallakurichi District -607202.

WP No. 11676 of 2024

23-02-2026