

COURT OF APPEALS OF TEXAS, FIFTH DISTRICT AT DALLAS

In re Munger Avenue Baptist Church, Wade Davis, and Pamela Ward

In re Munger Avenue Baptist Church · No. No. 05-21-00539-CV · Decided April 13, 2022

SUMMARY

The Texas Fifth Court of Appeals denied a petition for writ of mandamus challenging the trial court's denial of a plea to the jurisdiction. The court held that the relators failed to demonstrate a clear abuse of discretion concerning standing and the ecclesiastical abstention doctrine.

OPINION

PER CURIAM.

Deny and Opinion Filed April 13, 2022 In The Court of Appeals Fifth District of Texas at Dallas No. 05-21-00539-CV IN RE MUNGER AVENUE BAPTIST CHURCH, WADE DAVIS, AND PAMELA WARD, Relators Original Proceeding from the 298th Judicial District Court Dallas County, Texas Trial Court Cause No. DC-16-02634 OPINION Before Justices Molberg, Reichek, and Smith Opinion by Justice Molberg Relators' July 6, 2021 petition for writ of mandamus challenges the trial court's denial of relators' plea to the jurisdiction.

Relators argue that real party lacked standing to bring suit and that the ecclesiastical abstention doctrine barred the trial court from exercising subject-matter jurisdiction over the claims asserted therein. Real party's claims of breach of fiduciary duty, conversion, fraud by non-disclosure, theft of property, conspiracy, and certain declaratory relief all relate to real party's allegations that relator Pastor Wade Davis made unauthorized Page 1 of 2 withdrawals and personal use of Church funds and that relator Pamela Ward assisted Davis in doing so.

Entitlement to mandamus relief requires relators to show that the trial court clearly abused its discretion and that they lack an adequate appellate remedy. *In re Prudential Ins. Co.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding).

However, where the petition for writ of mandamus challenges the trial court's subject matter jurisdiction over the underlying proceeding, relators need not establish the lack of an adequate appellate remedy. *In re Episcopal School of Dallas, Inc.*, 556 S.W.3d 347, 360 (Tex. App.—Dallas, 2017 orig. proceeding) (challenging denial of plea to the jurisdiction).

Based on our review of relators' petition and record, and real party's response and supplemental record, we conclude relators have failed to demonstrate that the trial court clearly abused its

discretion in denying relators' plea to the jurisdiction.

Accordingly, we deny the petition for writ of mandamus. See TEX. R. APP. P. 52.8(a).
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