

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.08.2015

CORAM

The Hon'ble MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
The Hon'ble MR.JUSTICE T.S.SIVAGNANAM

O.S.A.No.148 of 2015
and M.P.No.1 of 2015

1.K.Iqbal Hussain
2.M.Sheik Mansoor
3.S.A.Sheik Mohamed
4.N.Sheik Mohamed
5.S.Mohamed Naseer
6.M.Asthalluah
7.S.N.Sulthan ... Appellants

-vs-

Jamiyyathu Ahlil Qura'an Val Hadhees,
rep. by its State General Secretary,
Mr.S.Ayub Khan. .. Respondent

Appeal filed under Order XXXVI Rule 11 of O.S. Rules and Clause 15 of the Letters Patent against the decretal order and fair order dated 08.04.2015 passed in A.No.7795 of 2014 in C.S.No.556 of 2014 on the file of original side of this Court.

For Appellants : Mr.M.Vallinayagam, SC
for Mr.B.Vijay

For Respondent : Mr.AR.L.Sundaresan, SC
for Mr.M.Sivavarthanan

J U D G M E N T

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

After some arguments, learned senior counsel for the appellants does not press the appeal, as he states that the findings had been arrived at on an application preferred by the appellant under Order 7 Rule 11 of the Code of Civil Procedure, 1908 and thus, he would file the written statement taking necessary defence.

2. There is no dispute that the jurisdictional issue can be raised by the appellant as a defence in the suit and that may be tried. As to whether it can be tried as a preliminary issue or not, in view of the submission of the learned counsel for the appellant that it

should be tried as a preliminary issue, is a matter which falls within the domain of the jurisdiction of the trial Judge.

3.Original Side Appeal is dismissed as withdrawn in terms aforesaid. No costs. Consequently, M.P.No.1 of 2015 also stands dismissed.

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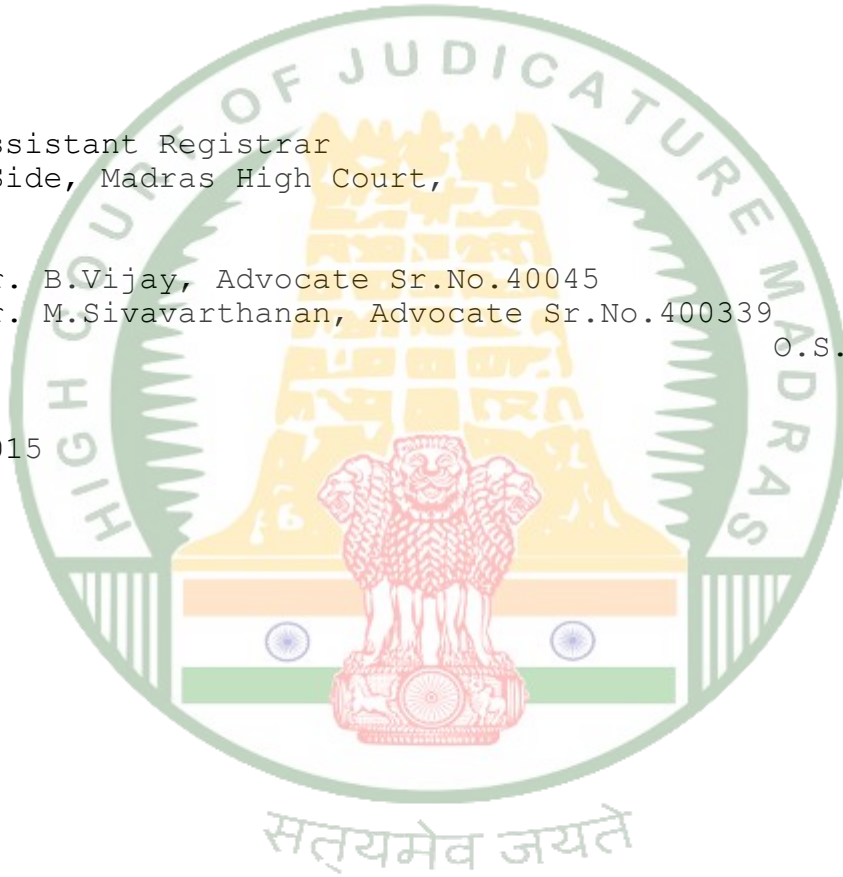
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O.S.A.No.148 of 2015

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