

**Civil Revision Application No.32 of 2016**

## Versus

Shri. B.A. Darak, Advocate, for petitioner.

**DATE : 8<sup>th</sup> MARCH 2016**

1) The revision is filed by original defendant No.5 of Wakf Suit No.202/2006 to challenge the order made by the Wakf Tribunal on application filed at Exhibit 101. Said application was filed by the plaintiff to add Wakf Board as party defendant to the suit. Learned counsel for the petitioner is heard.

2) The submission was made that in the past the Wakf Board had appeared in the suit and had taken objection to the suit by contending that in view of Section 89 of the Wakf Act 1995 notice was not given to them

and so the suit was not tenable against them. The objection was allowed and the plaint was rejected as against the Board by the Tribunal by order dated 30-8-2007. In view of these circumstances learned counsel for defendant No.5 submitted that, it is not open now to the Wakf Tribunal to make order to add Wakf Board as party defendant in the suit.

3) This Court has carefully gone through the plaint of the suit. There are two kinds of prayer. In the first prayer plaintiff has prayed for injunction as against respondent Nos.4 and 5 to protect his possession and the second prayer is to issue injunction against Wakf Board for preventing the Wakf Board from giving the properties on lease basis to anybody. Thus there were two different reliefs claimed against different defendants. It can be said that in the past in respect of the relief claimed against Wakf Board order was made by the Tribunal. Now there is question of considering the relief claimed as against defendant Nos.4 and 5 which was of protecting the possession of the plaintiff over the disputed properties.

4) In view of provision of section 90 of the Wakf Act, 1995 every Court, before whom any proceeding comes involving any wakf property, is to see that Wakf Board is added as party. Unless and until hearing is given to the Wakf Board no order of any nature is expected to be made by any Court including the Tribunal. In view of this circumstance and in view of the aforesaid nature of dispute this Court holds that there are no merits in the present revision.

5) Learned counsel for the petitioner has placed reliance on a case reported as **AIR 2001 Kerala 353 (Mable v. Dolores)**. This case is basically on the provisions of section 151 and Order 7 Rule 11(c) of the Civil Procedure Code, 1908. In view of the facts and circumstances of the present case this Court holds that the observations made by the Kerala High Court are of no use.

6) In the result, the revision is dismissed.

Sd/-  
(T.V. NALAWADE, J. )

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