

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **18.10.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.4314 of 2014 and
MP.No.1 of 2014

Syed Ali Asker Riaz

...Petitioner

versus

1.Mir Murtuza Hussain

2.The Tamil Nadu Wakf Board,
Rep. by its Chief Executive Officer,
No.1 Jaffer Serang Street,
Vallal Seethakadhi Nagar, Chennai - 600 001.

3.S.A.M.Ajaz

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decreetal order passed in I.A.No.10050 of 2011 in O.A.No.9 of 2011 dated 06.06.2014 made by the learned Wakf Tribunal Judge, 1st Assistant, City Civil Court, Chennai.

For Petitioner : Mr.M.N.S.Mohamed Habeeb

For Respondents : Mr.Nissar Ahmed for R1
Mr.V.Raghavachari for R2

ORDER

The petitioner filed an application in I.A.No.10050 of 2011 to implead him as a party to the proceedings in O.A.No.9 of 2011. The application was opposed by the respondents. The learned Trial Judge dismissed the application on the ground that he is neither a necessary party nor a proper party for an effective adjudication of the issue raised in O.A.No.9 of 2011. The order dated 06.06.2014 in I.A.No.10050 of 2011 is under challenge in this Civil Revision Petition.

2. Heard the learned counsel for the petitioner, the learned counsel for the first respondent and the learned Standing Counsel for the second respondent.

3. There is no dispute that the petitioner instituted proceedings in O.A.No.3 of 2011 before the WAKF Tribunal. The original proceeding was instituted by him challenging the order dated 06.04.2006 on the file of Wakf Board. The Wakf Board appears to have appointed the first respondent as the Muthavalli along with others. The first respondent, having found that there was an attempt by the Wakf Board to appoint the third respondent as joint muthavalli, filed the original application. Even though, the first respondent has not claimed any relief against the petitioner herein, the fact remains that the issue of appointment of joint

Muthavalli has already been raised by the petitioner herein in his original application in O.A.No.3 of 2011. The issue to be adjudicated in O.A.No.9 of 2011 would necessarily have an implication in so far as the issue raised in O.A.No.3 of 2011 is concerned. I am therefore of the view that the learned Judge was not correct in dismissing the application filed by the petitioner.

4. The order dated 06.06.2014 is set aside. The application in I.A.No.10050 of 2011 is allowed.

5. The learned counsel for the first respondent submitted that the petitioner is an American citizen and as such, reasonable time should be given to appear before the Trial Court. The petitioner shall file his counter in O.A.No.9 of 2011 within a period of one month from the date of receipt of a copy of this order. He should also make it a point to appear before the Trial Court on the date on which the matter is posted for evidence. In case, there is an attempt on the part of the petitioner to drag on the proceedings, it is open to the Trial Court to decide the matter on the basis of available materials.

K.K.SASIDHARAN, J.

(svki)

6. The Civil Revision Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petition is closed.

18.10.2016

Index:Yes/No
svki

To

The Wakf Tribunal Judge,
1st Assistant, City Civil Court, Chennai.

C.R.P.(P.D.) No.4314 of 2014

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