

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.1533 of 2016
and
C.M.P.Nos.8328 and 8329 of 2016

Mrs.Rani Ammal

... Petitioner

vs

1. Mr.Mohammed Zahoorullah

... 1st Respondent

2. The Chairman,
Tamil Nadu Wakf Board,
Seethakathi Nagar,
Chennai - 600 001.

2. The Executive Officer,
Tamil Nadu Wakf Board,
Seethakathi Nagar,
Chennai - 600 001.

3. The Superintend of Wakfs
Tamilnadu Wakf Board,
Chennai Zone,
821, Anna Salai,
Chennai - 600 002.

4. The Inspector of Wakfs,
Tamilnadu Wakf Board,
Chennai Zone,
821, Anna Salai,
Chennai - 600 002.

... Respondents 2 to 5 /
proposed respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decree dated 02.04.2016 passed in M.P.No.407 of 2015 in R.C.O.P.No.1474 of 2015 on the file the learned XV Judge, Small Causes Court, Chennai.

For Petitioner : Mr.S.Kumara Devan
For Respondents : Mr.Inamdar Ameenur Rahman for R1
Mr.V.Lakshminarayanan for R2 to R5

ORDER

This revision challenges the order of learned XV Judge, Court of Small Causes, Chennai passed in M.P.No.407 of 2015 in R.C.O.P.No.1474 of 2014 on 02.04.2016.

2. Heard Mr.S.Kumara Devan, learned counsel for petitioner, and Mr.Inamdar Ameenur Rahman, learned counsel for R1 and also Sri V.Lakshminarayanan, learned counsel for respondents 2 to 5/counsel for Wakf Board.

3. The respondent moved R.C.O.P.No.1474 of 2014 seeking eviction of the petitioner on the ground of willful default. The petitioner moved M.P.No.407 of 2015 seeking to implead the Wakf authorities as respondents 2 to 5 in the RCOP. Against dismissal of such application, petitioner moved the present revision.

4. Under order in W.P.No.33326 of 2015, this court had required the Wakf Board to consider the representation of the petitioner before it to the effect that the respondents 5 to 33 therein/private persons were acting illegally against the interest of the Wakf Board. Such order was of the date 15.10.2015 and under communication dated 13.11.2015 in Na ka No. 34/15/A6/c, the Wakf Board had required the first respondent herein to register with the Board. In dismissing M.P.No.407 of 2015, the rent controller informed thus

“The petitioner herein has not filed any documents to substantiate his claim stating that the property belong to the Wakf Board and the alleged order passed by the authorities of Wakf Board dated 15.10.2015. A mere pleading is not sufficient to prove the contention of the petitioner. There was no prohibitory Order passed by the Hon'ble High Court in respect of the RCOP proceedings as the order passed in the Writ Petition only concerned to Wakf Board. It is also seen that the Wakf Board have initiated separate action under their own act to take possession of the petition premises and the matter is now pending for consideration before the Hon'ble High Court. In such situation, this court is of view

that the main RCOP was filed by the R-1/petition for eviction under the Rent Control Act whereas the substantial relief of possession sought by the Wakf Board is also pending before the Hon'ble High Court. Therefore this court is of considered view that the present petition for impleadment of R-2 to R-5 is not necessary to decide the main RCOP. The order passed in Writ Petition does not confer any right to the R-1/petitioner as far as this case is concerned. The respondent/petitioner shall prove to the court that he is the landlord of the premises in the main RCOP and the R-1/petition herein is having every right to agitate or prove his contention of title in question of the respondent/petition and other incidental reliefs. Therefore this court is inclined to dismiss this petition.”

As the Rent Controller has left it open to both parties to make out their respective cases, this Court finds no reason to interfere. However, taking note of Section 90 of the Wakf Act, brought to our notice by Sri V.Lakshminarayanan, learned counsel for the Wakf Board, this Court would require the Rent Controller to cause notice to the Board in keeping threewith at the cost of the first respondent herein.

5. With the above direction, the Civil Revision Petition is disposed of.
No costs. Consequently, connected miscellaneous petitions are also closed.

12.07.2016

Index:yes/no
Internet:yes

vrc

To

The XV Judge,
Court of Small Causes,
Chennai.

C.T.SELVAM, J

vrc

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