

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.11.2016**

CORAM:

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

C.R.P.(P.D.) No.3703 of 2016 and
C.M.P.No.18783 of 2016

Sheik Dawood

...Petitioner

versus

1.Coimbatore Patel Mohallah
Sunnath Jamath Majid
Rep. by its Secretary
Peria Allahsamy Trust,
Coimbatore - 641 001.

2.Tamilnadu Wakf Board,
Chennai,
Rep. by its Secretary Cum Chief
Executive Officer,
Chennai.

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 15.09.2016 made in I.A.No.232 of 2016 in O.S.No.669 of 2005 on the file of Principal Subordinate Judge, Coimbatore, dismissing the petition filed under Order VIII Rule 1 of Civil Procedure Code.

For Petitioners : Mr.P.Balasubramanian

ORDER

The first respondent filed a suit in O.S.No.669 of 2005 before the Principal Sub-Court, Coimbatore against the petitioner, praying for a decree, directing delivery of vacant possession and other incidental reliefs. Before the Trial Court, the petitioner filed an application in I.A.No.232 of 2016 to reject the plaint. The application was dismissed. The order is under challenge in this Civil Revision Petition.

2. Heard the learned counsel for the petitioner.

3. The petitioner filed an application in I.A.No.232 of 2016 before the Principal Sub-Court at Coimbatore with a contention that the suit filed by the first respondent is not maintainable, inasmuch, as he has no right, title or interest in respect of the suit property. The learned Trial Judge was of the view that the issue raised by the petitioner should be decided after taking evidence.

4. There is no question of axing the plaint at the threshold on the ground that the respondent is not the owner of the property in question. These are all matters for the Trial Court to decide on the basis of pleadings and evidence. I am therefore of the view that the Trial Court was correct in dismissing the application.

5. The petitioner is given liberty to file additional written statement, if he is so advised. In case, the Trial Court is of the view that additional written statement is to be permitted, necessarily, an additional issue should also be framed taking into account the contention taken by the petitioner.

6. The Civil Revision Petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

30.11.2016

Index:Yes/No

Note : Issue order copy by 01.12.2016

svki

To

The Principal Subordinate Court, Coimbatore

K.K.SASIDHARAN,J.

(svki)

C.R.P.(P.D.) No.3703 of 2016

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