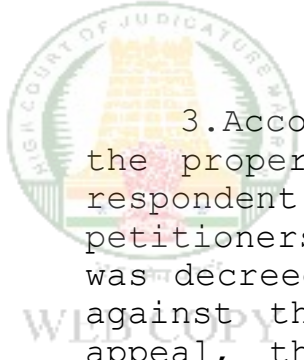




3. According to the respondent, the respondent is the owner of the property in question. The petitioners are the tenants. The respondent filed suit in O.S.No.1384 of 1998 for ejectment of the petitioners from the petition mentioned property. The said suit was decreed. The petitioner filed an appeal in A.S.No.222 of 2006 against the Judgment and decree dated 30.08.2006. In the said appeal, the petitioners filed I.A.No.802 of 2015 to defer the hearing of the appeal in A.S.No.222 of 2006, till the disposal of the W.P.No.14591 of 2014 pending before this Court.

4. The property belongs to His Honour Prince of Arcot Endowments. The Government by G.O.(Ms) No.351, Commercial Taxes and Religious Endowment Department, dated 11.10.1993 appointed an Agent to represent the said Endowment. The Endowment is represented by an Agent in the suit as well as in the appeal. The petitioner filed W.P.(MD)No.14591 of 2014 challenging the G.O(Ms) No.351, dated 11.10.1993 appointing an Agent under Tamil Nadu Act 2/1923 before this Court. Therefore, he filed an application in I.A.No.802 of 2015 to defer the hearing of the appeal in A.S.No.222 of 2006 till the disposal of the W.P.(MD)No.14591 of 2014 pending before this Court. The respondent opposed the same and filed counter. The learned Judge taking into consideration the pendency of the writ petition, by the order, dated 05.10.2015 granted one month time to the petitioner and passed an order that appeal will be taken after one month. Against that order, present Civil Revision Petition is filed.

5. The learned counsel for the petitioner contended that the learned Judge neither allowed the application nor dismissed the application. The learned Judge ought to have deferred the appeal till the disposal of the writ petition. The learned Judge ought to have seen that the applicability of Prince of Arcot Endowment Act, 1922 (Act 2 of 1923) and G.O. Passed under the said Act have got a direct bearing on the First Appellate Court and validity of the G.O., has been challenged under the said Writ Petition. The learned Judge ought to have seen that the question of the applicability of the said Act and G.O., can be conclusively decided by this Court and the trial Court cannot decide about the validity of G.O., that too in the absence of Wakf Board and the Government as parties to the suit.

6. In support of his case, he has also relied on the judgment reported in **AIR 1984 Supreme Court, 921 A.C. Jose v. Sivan Pillai and others,**

38. Lastly, it was argued by the counsel for the respondents that the appellant would be estopped from challenging the mechanical process because he did not oppose the introduction of this process although he was present in the meeting personally or through his agent. This argument is wholly untenable because when we are



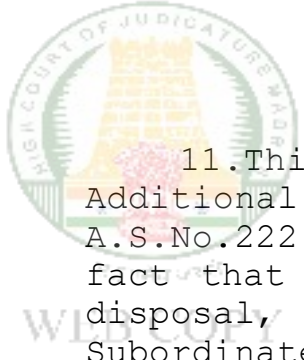
considering a constitutional or statutory provision there can be no estoppel against a statute and whether or not the appellant agreed or participated in the meeting which was held before introduction of the voting machines, if such a process is not permissible or authorised by law he cannot be estopped from challenging the same.

7.The respondent filed counter affidavit and submitted that the petitioners filed I.A.No.802 of 2015 only to drag on the proceedings. The petitioners have filed number of applications, pending appeal. The applications filed by the petitioners were dismissed and C.R.P.No.1126 of 2002 and SLP.(Civil) No.17208 of 2006 filed by the petitioners were also dismissed. This Court, by the order, dated 04.03.2011 made in C.R.P.(MD)No.431 of 2011 directed the II Additional Subordinate Judge, Tiruchirappalli to dispose of A.S.No.222 of 2006 before the end of June, 2011, after disposing all the Interlocutory Applications. Even after disposal of the C.R.P(MD)No.431 of 2011, the petitioners filed the writ petition only to drag on the proceedings. He further submitted that the petitioner filed an application in I.A.No.1093 of 2015 for extension of time and by the order dated, 07.12.2015, the learned Judge granted two months time and therefore prayed for dismissal of the Civil Revision Petition.

8.I have heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent and also perused the entire materials available on record.

9.From the materials on record, it is clear that the intention of the petitioner is only to drag on the proceedings on one pretext or other. In the writ petition filed by the petitioner in this Court, no order has been passed staying the hearing of the first appeal in A.S.No.222 of 2006. The writ petition is filed challenging the Prince of Arcot Endowments Act, 1922 (Madras Act II of 1923) and G.O.Ms.No.351 Commercial Taxes and Religious Endowment Department, dated 11.10.1993. When the suit filed by the respondent is of the year 1998, the appeal was filed in the year 2006. The petitioners have not taken any steps to challenge the Act and G.O., immediately. The petitioners filed Writ Petition in W.P.(MD)No.14591 of 2014 only in the year 2014. In the circumstances, the petitioners are not entitled to an order deferring the hearing of the first appeal till the disposal of the writ petition. The Judgment relied on by the learned counsel for the petitioners do not advance the case of the petitioner. The learned Judge has considered all these facts and dismissed the applications filed by the petitioners. There is no illegality or irregularity warranting interference by this Court.

<https://hcservices.courts.gov.in/hcservices> 10.In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.



11. This Court, by the order, dated 04.03.2011, directed the II Additional Subordinate Judge, Tiruchirappalli, to dispose of A.S.No.222 of 2006 before the end of June 2011. Considering these facts that already there is a direction by this Court for early disposal, this Court directs the learned II Additional Subordinate Judge, Tiruchirappalli, to dispose of A.S.No.222 of 2006 on merits, as expeditiously as possible, in any event, not later than 30th June, 2016.

Sd/-

Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.

am

To

The II Additional Subordinate Judge, Tiruchirappalli.

+1 cc to M/S.Ajmal Associates Sr No.17200

rg.NGM-SS/AR-I 13.04.2016 4P/3C

C.R.P (MD) No.2644 of 2015 (NPD)
28.03.2016