



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.09.2016

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP(PD) (MD) .No.1995 of 2016

and

CMP(MD) .No.9372 of 2016

The Managing Trustee,

Kaja Syed Sulthan,

Alaudin Dargha,

Goripalayam, Madurai - 625 002

: Revision Petitioner/

1st Respondent/ 1st Respondent

Vs.

1. V.S. Arunachalam

: 1st Respondent/Petitioner/
Petitioner

2. Wakf Board,

rep. by its Chief Executive Officer,

No.I Jaffer, Sherong Street,

Vallal Seethakathi Nagar,

Chennai - 600 002

: 2nd Respondent/2nd Respondent/
2nd Respondent

Prayer: The Civil Revision Petition is filed under Section 83 (proviso) of the Wakf Act r/w Article 227 of the Constitution of India to set aside the order datd 22.08.2016 made in I.A.No.601 of 2015 in W.O.P.No.1 of 2015 on the file of Principal Sub Court (Wakf Tribunal), Madurai.

For Petitioner

: Mr. V. Sitharanjandas

For R1

: Mr. N. Murugasen

For R2

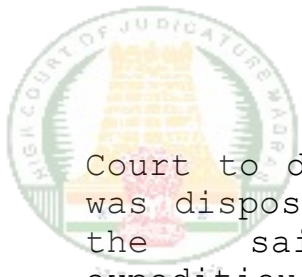
: Mr. K. K. Senthil

ORDER

This Civil Revision Petition has been filed to set aside the order dated 22.08.2016 made in I.A.No.601 of 2015 in W.O.P.No.1 of 2015 on the file of Principal Sub Court (Wakf Tribunal), Madurai.

2. By the consent of both parties, the Civil Revision Petition itself taken up for final disposal.

3. The revision petitioner filed W.O.P.No.4 of 2010, before the Wakf Tribunal / Principal Sub Court, Madurai. Against which, the first respondent herein filed W.O.P.No.1 of 2015 along with I.A.No.601 of 2015 for grant of interim injunction. Since the said Interim Injunction Application was pending without any progress, the first respondent filed CRP(MD).No.1254 of 2016 before this



Court to dispose of the said I.A.No.601 of 2015 and the said CRP was disposed of, on 22.02.2016, directing the Tribunal to dispose the said I.A.No.601 of 2015 in W.O.P.No.1 of 2015 as expeditiously as possible preferably on or before 31.07.2016. Subsequently, the Tribunal has passed an order in I.A.No.601 of 2015 in W.O.P.No.1 of 2015, dated 22.08.2016. Aggrieved with the said order, the petitioner has preferred the Civil Revision Petition.

4. The learned counsel for the petitioner submitted that the W.O.P.No.1 of 2015 filed by the first respondent is not maintainable and the said OP was preferred by the first respondent without following the procedure as laid down in the fact. Further there is no sufficient opportunities was given to the revision petitioner to agitate the above said Interlocutory Application. In the light of the direction given by this Court, the aforesaid order was passed. He further submitted that the first respondent is not in possession of the subject matter of the property. According to the petitioner, he is in possession of the property and the subject matter of the property is vacant land measuring an extent of 6832 Sq. Ft. Therefore, the matter has to be decided only on the basis of the necessary documents produced before the Tribunal. The petitioner has also produced the document in the above said Interlocutory Application and the same has not been considered. Therefore, the order passed by the Tribunal in the aforesaid Interlocutory Application to be re-considered and the same is liable to be set aside.

5. Per Contra, the learned counsel for the first respondent submitted that the submission of the petitioner is not correct. The petitioner has produced the necessary documents in the above said Interlocutory Application, which was marked as Exs. A1 to A35. Based on the said document, the Tribunal has granted interim injunction, pending disposal of the OP. Further, the aforesaid document had been established that the first respondent is in possession of the property. Therefore, there is no warrants to interfere with the order passed by the Tribunal.

6. Heard the learned counsel appearing on either side and perused the materials available on record.

7. During the course of the argument, it is submitted that the documents produced by the petitioner was not properly considered by the Tribunal and objection raised by the revision petitioner that the OP itself is not maintainable before the Tribunal. Further, the counsel for the petitioner would submit that the findings of the Court below would adversely affect to decide this OP itself. However, no such opportunity was granted to the revision petitioner to raise all these grounds at the time of hearing in the aforesaid Interlocutory application.



The learned counsel for the first respondent would submit that the subject matter of the suit property is vacant land and he has also marked upon the documents in the aforesaid Interlocutory Application and the same was considered by the Tribunal, thereafter, the Tribunal granted interim injunction in the above OP. At this stage, it is argued by both parties that the subject matter of the properties are vacant land, the matter has to be decided in the main OP, further both parties are agreed to maintain the status quo till the disposal of the main OP, now, pending before the Tribunal. Further the petitioner would submit that the Tribunal shall consider the main OP without being influenced by any observation made in the order passed in the instant application.

8. In such circumstances, this Court is inclined to pass the following order:-

i) As per the submission made by learned counsel appearing for both sides, the petitioner as well as respondents are directed to maintain status quo till the disposal of the WOP No.1 of 2015.

ii) The Tribunal is directed to dispose of the WOP.No.1 of 2015 on merits and in accordance with law, independently, without being any influence on the observation made in the I.A.No.601 of 2015, dated 22.08.2016, within a period of six months from the date of receipt of a copy of this order.

9. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/
Assistant Registrar(C.S-II)

/TRUE COPY/

Sub Assistant Registrar

To

The Principal Sub Court (Wakf Tribunal), Madurai.

+1cc to M/s.V.Sitharanjandas, Advocate, in SR No.57111.

+1cc to M/s.N.Murugesan, Advocate, in SR No.56924.

trp
msm/ss3/sar1/18.11.16/p3/4c

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