

HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.3475 of 2016

ORDER:

This Civil Revision Petition under Article 227 of the Constitution of India is filed challenging the Docket Order dt.13.04.2016 in I.A.No.1041 of 2013 in O.S.No.79 of 2005 on the file of Andhra Pradesh State Wakf Tribunal at Hyderabad, whereunder the Tribunal observed that "Since Chief Affidavit of Defendant filed and Order of this Tribunal is complied with in I.A.No.1040 of 2013, this petition is allowed".

2. It is the case of the Revision Petitioners that Andhra Pradesh State Wakf Board/respondent herein(hereinafter referred to as ' Tribunal') filed a petition under Section 151 of Code of Civil Procedure (for short 'CPC') to reopen O.S.No.79 of 2005 for the purpose of adducing evidence along with other application filed under Section 151 of CPC to set aside the Order dt. 10.06.2010 permitting him to lead evidence. These two petitions were disposed of by a Common Order dt.13.04.2016 imposing certain conditions. The operative portion of the Common Order is as follows:

"In the result, these petitions are allowed reopening the suit and setting aside the Order dt. 10.06.2010 for the purpose of adduction of evidence by the petitioner/defendant subject to condition that petitioner shall adduce all its evidence on 22.12.2015. Failure to comply the said condition, these petitions stand dismissed. Call on 22.12.2015 for compliance".

3. As seen from the Common Order dt. 30.11.2015, respondent herein has to adduce evidence on 22.12.2015 and in the event of failure to adduce evidence on that day, the petitions shall stand dismissed. But, the respondent herein did not comply the said direction. On 21.01.2016, the matter was adjourned to 5.02.2016 and again to 10.03.2016 and 28.03.2016 and 13.04.2016. Though the Tribunal passed a conditional Order, the respondent herein did not comply the direction issued by the Tribunal and in such a case, the Tribunal shall not relax such condition granting adjournments liberally contrary to the Order passed by it. More curiously, it recorded compliance of direction in the Common Order dt.30.11.2015 passed in I.A.No.1040 of 2013 and I.A.No.1041 of 2013 in O.S.No.79 of 2005 i.e., after lapse of 7 months from the date of its Order. The respondent herein did not file any petition to relax the condition imposed by the Tribunal and the Tribunal also did not relax the condition till today to receive affidavit of the respondent herein in lieu of evidence under Order 8 Rule 14 (2) of CPC. Receiving of such affidavit is not in compliance of conditional order passed by it and it is totally contrary to the Common Order passed in I.A.No.1040 of 2016 and I.A.No.1041 of 2016. Due to non-compliance of the condition by the respondent herein, those Petitions are deemed to have been dismissed and in such a case, the question of receiving evidence does not arise. Hence, the Docket Order dt.13.04.2016 is illegal and contrary to the direction given by it.

4. In the result, this Civil Revision Petition is allowed setting aside the Docket Order dt.13.04.2016 in I.A.No.1041 of 2013 in O.S.No.79 of 2005 on the file of Andhra Pradesh Wakf Tribunal at Hyderabad. However, liberty is given to the respondent/defendant

to take appropriate steps in this regard, if the law permits.

As a sequel, miscellaneous petitions, if any, pending in this case, shall stand closed.

M. SATYANARAYANA MURTHY, J

Date: 12-08-2016.

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C.R.P. No.3475 of 2016

Dt. 12-08-2016

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