

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **13.02.2017**

CORAM

THE HON'BLE MRS.JUSTICE **PUSHPA SATHYANARAYANA**

CRP PD No.131 of 2017
and
C.M.P.No.1158 of 2017

Janab E.K.Abdul Khyum Sahib

.. Petitioner

vs

1. M/s.Dadasha Makkan Wakf
rep.by its President
on Managing Committee
Mr.K.M.Sabir Ali

2. The Tamil Nadu Wakf Board
rep.by its Chief Executive Officer

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 09.09.2016 passed by the learned I Assistant Judge, City Civil Court, Chennai in I.A.No.4578 of 2016 in O.S.No.3496 of 2011.

For Petitioner : Mr.Inamdar Ameenur Rahman

For Respondents : Mr.N.A.Nissar Ahmed for R1

ORDER

The first defendant is the revision petitioner. Aggrieved by the order passed by the Court below in dismissing the application filed by him under Order VII Rule 11 of the Code of Civil Procedure to reject the plaint, the petitioner, has preferred the above revision.

2. The only contention raised by the revision petitioner is that the plaintiff's Trust is not represented by a proper and fit person. It is his case that the plaintiff has not produced any proof to show that he is the President or Secretary of the Trust authorized to represent the plaintiff. However, the Court below, without considering the same, has dismissed the application, warranting interference in this revision.

3. Per contra, it is stated by the learned counsel appearing for the plaintiff-Wakf that as early as on 17.06.2015, the plaint was amended in I.A.No.1423 of 2015 and the Secretary has been authorized to represent the Wakf. Thereafter the matter was posted for cross-examination of PW1. However the defendant has been taking time and not proceeding with the suit but had come up with the above application under Order VII Rule 11 of the Code of Civil

Procedure to dismiss the suit, which was correctly dismissed by the Court below, warranting no interference in this revision.

4. Heard both sides.

5. The suit has been filed by the plaintiff for recovery of possession and for payment of arrears of rent. It is seen that the suit was filed in the year 2011, whereas the application to reject the plaint was filed by the first defendant only in the year 2016, which clearly shows that only to procrastinate the proceedings, the said application has been filed, which was rightly dismissed by the Court below.

6. In such circumstances, I do not find any merit in the revision. Accordingly, the same is dismissed. No costs. consequently, the connected miscellaneous petition is closed.

13.02.2017

vj2

Index: yes/No

Internet: yes

To

The I Assistant Judge, City Civil Court, Chennai

**PUSHPA SATHYANARAYANA,J.,
vj2**

CRP PD No.131 of 2017

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