

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.NPD.No.1745 of 2017 and
and C.M.P.No.8237 of 2017

1. Mahboob Basha

2. Mr.Niyamathullah,

3. Rahimanullah,

4. Rahimullah,

5. Ghayazullah,

... petitioners

Vs.

1. Butt Road jumma Masjid,
represented by
its Secretary,
Butt Road,
St.Thomas Mount,
Chennai – 16.

2.C.A.Rajadurai,

3.Junior Engineer,
TNEB,
Alandur,
St.Thomas Mount,
Chennai – 16.

4.Chief Executive Officer,
Tamil Nadu Wakf Board,
Chennai – 1.

..respondents

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India, to direct the Additional Sub Judge, Chengalpet to number E.A.S.RNo.6159 of 2016 in E.P.No.25 of 2016 in Wakf O.S.No.163 of 1999 dated 24.04.2017, on the file of the learned Additional Subordinate Judge, Chengalpet and allow this Civil Revision Petition.

For petitioners : Mr.S.Madhusudanan

For R1 : Mr.S.A.Rajan

ORDER

According to the petitioner, the first respondent herein filed a suit in O.S.No.163 of 1999 against the second respondent herein to vacate a property bearing No.5/64, Butt Road, St.Thomas Mount, Chennai 600 016 and the suit was decreed. Pursuant to the same, the first respondent filed an application in EP.No.25 of 2016 in the above suit for the execution of the above decree which is still pending. Then, the petitioners herein filed an application in E.A.Sr.No.6159 of 2016 in the above EP on the file of the learned Additional Subordinate Judge, Chengalpet requesting to implead the petitioners in the above EP as they are necessary parties in the same. But, with endorsement, the application has been returned in

the above EA.SR.No.6159 of 2016. Hence, the petitioners have filed the present Civil Revision Petition before this Court for the aforesaid prayer.

2. According to the learned counsel for the petitioner, the Trial Court has not considered the fact that the first petitioner herein is the original owner and in possession of the property, returned the above application without assigning any reasons. Hence, the petitioners have filed the Civil Revision Petition.

3. The learned counsel for the respondents would submit that the respondents have no objection in filing the application by the petitioner under Section 47 and 151 of Code of Civil Procedure, if the applicant satisfies the court below.

4. In view of the submissions made by the counsels for the parties, this court is inclined to directed the court below / Additional Sub Court, Chengalpet to permit the petitioners to represent the said EASR application, to comply with defects pointed out by the Additional Sub Court, Chengalpet. Thereafter, the learned Additional Subordinate Judge, Chengalpet is directed to consider the application and number the same if it is otherwise in

order.

5. In the above circumstances, the Civil Revision Petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

6. The original application in E.A.S.R.No.6159 of 2016 has to be returned to the counsel for the petitioner after obtaining a copy of the said impugned petition.

23.06.2017

Index : Yes/No
Internet : Yes/No
Speaking/Non-speaking
lok
(Note: Issue order copy on 28.06.2017)

D.KRISHNAKUMAR.J,

lok

To
The learned Additional Subordinate Judge,
Chengalpet

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23.06.2017