IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2017

CORAM:

THE HONOURABLE MR. JUSTICE RAJIV SHAKDHER
and
THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

O.S.A.No.283 of 2017

I.S.Ibrahim .. Appellant/Applicant

Vs.

The Official Trustee of Madras,
High Court Campus,
Chennai-600 104. .. Respondent/Respondent

Prayer : Original Side Appeal filed under Order XXXVI, Rule 11 of the Original Side Rules read with Clause 15 of the Letters Patent, against the order dated 19.04.2017, passed in A.No.2379 of 2017 in C.S.No.314 of 1930.

Prayer in A.2379 of 2017:
Application filed under order XIV, Rule 8 of O.S. Rules, under Section 25 of Official Trustee Act 1913, praying to enhance the Ramzan Expenses from Rs. 16,000/- to Rs. 90,000/- (Per annum) for 30 days of the month of Ramzan during the month of May-June 2017.

C.S.No.314 of 1930:
Civil Suit in forma pauper is for a declaration (1) That the share of the plaintiff in the estate of M.K. Periathambi Marakayar, Deceased is 2193/27648 (2) That any arbitration proceedings purported to have been conducted on behalf of the Plaintiffs mother are not binding on the Plaintiff or his mother. (3) That the alienations in favour of the father of defendant 9 and in favour of defendants 10 & 11 herein are not valid and binding on the plaintiff and (4) that the plaintiff is entitled to include the properties alleged to the subject of a wakf created by the said deceased and set as items (a) to (e) in Schedule B Part II annexed of the Plaint as part of the said estate for bringing into hotchpot the properties alinated in favour of the father of the defendant 9 and in favour of defendants 10 & 11 herein for directing that the said estate be administered under the direction of this court, the dividing and distributed between the heirs of the said M.K. Periathambi

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

Marakayar, deceased in properties to their shares according to mahameden Law.

Assets belonging to the said estate; for restraining defendant 2 herein and his remainder R. Krishnan,Defendant 17 herein from excuting the decree in C.S. No 6 of 1925 on the file of this court ; for taking an account of all the assets together wit the rents and profits and liabilties of the said estate for appointing a commissioner to divide the immovable properties belonging to the said estate by metes and bounds giving all the necessary directions therefor, for appointing a recevier to the suit and estate during the pendancy of this suit for a scheme being framed for the Proper management and conduct of the charities, prescribed under the wakf deed dated 25.04.1919 and for consequential reliefs.

For Appellant : Mr.A.Ilayaperumal

For Respondent : Ms.Kannammal
AG & OT

J U D G E M E N T

(Judgement of the Court was delivered by RAJIV SHAKDHER,J.)

1. This is an appeal preferred against the judgement and order dated 19.04.2017, passed by the learned Single Judge in A.No.2379 of 2017.

1.1. By virtue of the impugned order, learned Single Judge has directed enhancement of Ramzan expenses from Rs.16,000/- to Rs.25,000/-.

2. The appellant before us is aggrieved by the fact that the enhancement is not ordered, as per the prayer made in the application, which is, that the expenses should be enhanced from Rs.16,000/- to Rs.90,000/- for thirty (30) days period of Ramzan, occurring between May, 2017 and June, 2017.

3. On the previous date, we had asked the learned counsel to file the relevant bills to support the expenses claimed by the appellant.

3.1. The appellant's counsel has filed bills, which seem to indicate that per day a sum equivalent to Rs.1,200/- is incurred only vis-a-vis purchase of mutton.

4. Learned counsel for the appellant says that other expenses are incurred for ingredients used for preparation of mutton and vegetables etc. It is the appellant's case that the daily expenses during the thirty (30) days of Ramzan, is between Rs.2900/- and Rs.3100/- approximately.

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

5. On the other hand, learned Administrator General and Official Trustee (AG & OT), says that as a matter of fact, the Will of the testator makes provision only for gruel and dates.

6. Having heard the learned counsel for the appellant and the AG & OT and perused the record, we are of the view that the provision qua Ramzan expenses needs to be enhanced a little more. This conclusion we have arrived at, is based on the "empirical report" dated 07.11.2017, placed on record by the AG & OT. A perusal of the report shows that even according to the AG & OT, everyday, at least 25 - 30 persons enter the Mosque for worship, and that, during festival time, the subject Mosque is "crowded".

6.1. Therefore, given the inflation in the vegetable prices, we are of the view that the Ramzan expenses could be enhanced from Rs.16,000/- to Rs.40,000/- for the period of thirty (30) days, when Ramzan is observed.

6.2. We, however, make it clear that the enhancement ordered by us shall operate for the next three (3) years, i.e., 2018-2019, 2019-2020 and 2020-2021.

7. The impugned judgement and order of the learned Single Judge is varied to the aforesaid extent.

8. The captioned appeal is, accordingly, disposed of. There shall, however, be no order as to costs.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

gg
To

The Sub Assistant Registrar
Original Side
High Court, Madras.

+1 CC to MR.A. Ilayaperumal, advocate sr 83172.
+1 CC to The Administrator General and official Trustee of Tamil Nadu, sr 83167.

O.S.A.No.283 of 2017

GJII(CO)
SP(12/01/2018)

WEB COPY
https://hcservices.ecourts.gov.in/hcservices/