

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANIC.R.P.(PD)No.3347 of 2011
& M.P.No.1 of 2011

Masjid-E-Ansari

Represented by

1.Syed Rahim, President

2.Liyakatu Ali Khan, Secretary

Chitra Nagar, Kotturpuram

Chennai – 600 085.

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Petitioner

Vs.

1.K.Pachiamma

2.S.Rajendran

3.N.Padmavathy

4.M.Velayudam

5.V.Mani

6.K.Muniyan

7.K.Ramesh

8.G.Ravi

9.K.Arul

10.G.Elumalai

11.V.Lakshmi

12.T.Muthu

13.K.Chinnakulandai

14.S.Chakravarthi

15.G.Duraisamy

16.G.Loganathan

17.K.Alamelu Ammal

18.M.Govindaraj

19.Parthasarathy

20.Mrs.Lakshmi

21.Viswanathan

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Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India against the order of the learned V Asst. Judge, City Civil Court, Chennai in rejecting the memo dated 29.06.2010 in O.S.No.7027 of 2000 by order dated 11.02.2011.

For Petitioner : Mr.V.Lakshminarayanan

For Respondents : Mr.V.Balasubramanian
for R1 to R18, 20 & 21

R19 – Died.

ORDER

This Civil Revision Petition has been filed against the order of the learned V Asst. Judge, City Civil Court, Chennai in rejecting the memo dated 29.06.2010 in O.S.No.7027 of 2000 by order dated 11.02.2011.

2. The petitioner is the plaintiff and the respondents are the defendants in O.S.No.7027 of 2000 filed before V Asst. Judge, City Civil Court, Chennai. The petitioner filed the above suit for declaration to declare the suit property as wakf property by user. The 8th respondent filed written statement on 13.10.2008 and is contesting the suit. The petitioner filed a memo dated 29.06.2010 for referring the suit to the I Asst. Judge, City Civil Court, Chennai

which is declared as Wakf Tribunal. The respondents filed objection on 12.07.2010 to the memo dated 29.06.2010.

3. According to the petitioner, the issue with regard to wakf properties can be decided only by Wakf Tribunal and Civil Court has no jurisdiction. The learned V Asst. Judge, City Civil Court, Chennai referred the memo to the Principal Judge, City Civil Court, Chennai for orders. The learned Principal Judge returned the matter to the V Asst. Judge, City Civil Court, Chennai directing him to hear the matter and pass orders on the memo filed by the petitioner. The same was brought to the knowledge of the V Asst. Judge on 07.02.2011. The learned Judge, posted the suit for hearing on 11.02.2011 to hear the parties and pass orders on the memo. However, the matter was not listed on that day. In the afternoon, the learned counsel for the petitioner, in the presence of the learned counsel for the respondent mentioned the matter to the court, it was informed that orders were already passed. Therefore, the petitioner filed another memo dated 11.02.2011 on the same day for recalling the said order.

4. Against the said order dated 11.02.2011 in rejecting the memo dated 29.06.2010 in O.S.No.7027 of 2000, the present Civil

Revision Petition has been filed.

5. According to the learned counsel for the petitioner, the case was not listed on 11.02.2011 and the learned Principal Judge, before the counsel for the petitioner as well as respondent could mention the matter has passed order without hearing the parties. The learned Judge has not passed any order on the memo dated 11.02.2011 filed by the petitioner to recall the said order even though respondents have filed their objection. The learned counsel for the respondent submitted that the petitioner has filed a memo for transferring the suit to Wakf Tribunal after commencement of Trial. The property in question is not a wakf property and it is a Government Poromboke land.

6. The learned counsel for the respondent submitted that the 19th respondent died and the 20th respondent is his wife and she is already on record and there are no other legal heirs.

7. Heard the learned counsels for the petitioner as well as respondents and perused the materials available on record.

8. The contention of the learned counsel for the petitioner is that, without hearing the parties, the learned Judge has rejected the memo as not maintainable. This contention is not disputed by the learned counsel for the respondent.

9. In view of the above circumstances, without deciding the CRP on merits, the impugned order of the learned Judge dated 11.02.2011 passed in the memo is set aside and remitted back to the V Asst. Judge, City Civil Court, Chennai. The learned Judge is directed to hear the parties and pass orders on the memo and objections, on merits and in accordance with law, within two weeks from the date of receipt of copy of this order.

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

Index : Yes/No
rgr

To

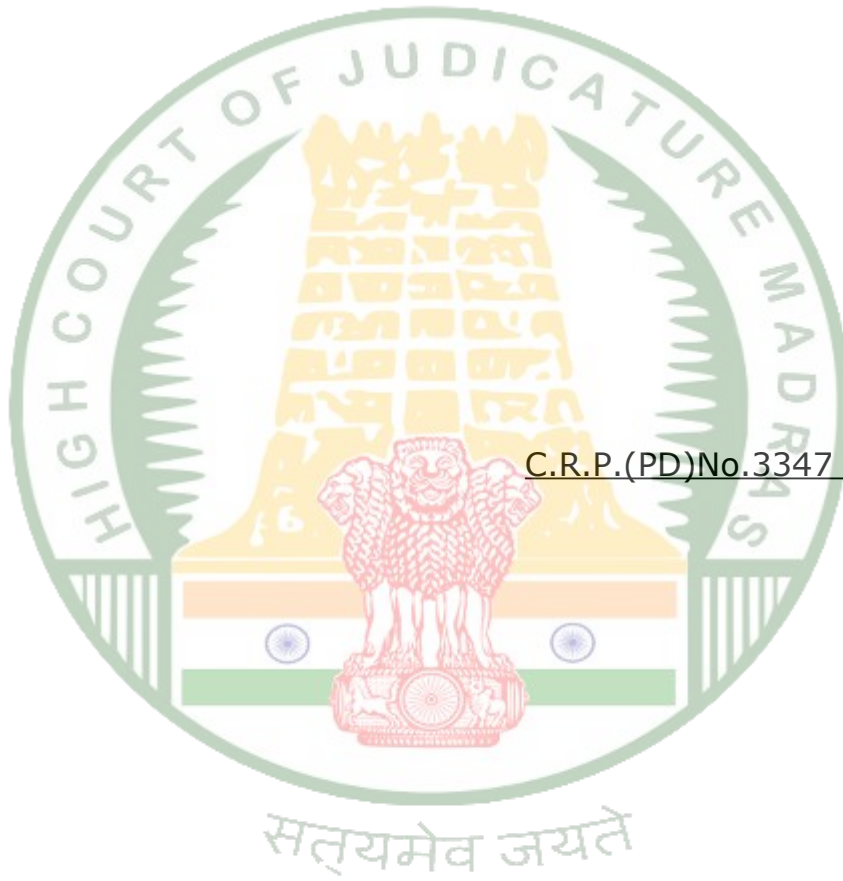
The V Asst. Judge,
City Civil Court,
Chennai.

16.08.2017

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V.M.VELUMANI, J.

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C.R.P.(PD)No.3347 of 2011

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