

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **28.04.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No. 1591 of 2012 and
M.P.No.1 of 2012 & CMP.No.15319 of 2016

M.H.Thaha Sahib

...Petitioner

Vs

1. Mohaideen Andavargal Pallivasal OOr
Uravinmurai Jamath Niruvaha Sabai
Kodikalpalayam, Thiruvarur Town,
Taluk and Munsifi,
By its Nattanmai, Kalilul Rahman,
Kodikalpalayam, Thiruvarur.

2. Mohaideen Andavargal Pallivasal Oor
Uravinmurai Jamath Niruvaha Sabai
Kodikalpalayam, Thiruvarur Town,
Taluk and Munsifim By its Secretary,
M.H.Jalaludheen
Kodikalpalayam, Thiruvarur

...Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 16.02.2012 made in I.A.No.32/12 in O.S.No.56/116 on the file of District Munsif Court, Thiruvarur.

For Petitioner : Mr.N.A.Nissar Ahmed

For Respondents : Mr.S.Sarathkumar for
Mr.T.Srinivasa Raghavan

ORDER

The petitioner filed a suit in O.S.No.56 of 2011 for permanent injunction against the respondents before the District Munsif, Thiruvarur. In the said suit, the respondents 1 and 2 filed written statement contending that Wakf Board is a necessary party for effective adjudication of the suit. The petitioner, taking into account the contentions taken by the respondents filed an application in I.A.No.32 of 2012 to implead the Tamil Nadu Wakf Board as a party to the suit. The said application was opposed by the respondents. The learned Trial Judge dismissed the application on the ground that Wakf Board is not a necessary party. The said order is under challenge in this Civil Revision Petition.

2. The learned counsel for the petitioner contended that even if the Wakf Board is not a necessary party, the Board is a proper party for an effective adjudication of the matter.

3. I have also heard the learned counsel for the respondents.

4. The suit in O.S.No.56 of 2011 was filed by the petitioner for permanent injunction. It was his contention that the suit property belongs to the Jamath represented by the respondents. However, the superstructure was constructed by him. Before the Trial Court, the respondents filed a written statement with a contention that the Wakf Board is a necessary party. It was only after filing written statement by the respondents, the petitioner filed an application for impleading.

5. The learned Judge dismissed the application primarily on the ground that there is no relief claimed against the Board. However, the fact remains that the property in question is a Wakf property. The petitioner is therefore *prima facie* correct in his contention that though there is no relief claimed against the Wakf Board, still the Board is a necessary party for an effective adjudication of the matter. This aspect was not considered by the learned Trial Judge. I am therefore of the view that the order impugned is liable to be set aside.

6. In the result, the order dated 16 February, 2012 is set aside. The application in I.A.No.32 of 2012 is allowed.

K.K.SASIDHARAN,J.

(svki)

7. The Civil Revision Petition is allowed as indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

28.04.2017

svki

To

The District Munsif Court, Thiruvarur

C.R.P.(P.D.) No. 1591 of 2012

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