

THE HON' BLE DR. JUSTICE B.SIVA SANKARA RAO

CIVIL REVISION PETITION No.6043 OF 2017

ORDER:

Notices served on respondents 1 and 5, respondent No.1 is appearing through advocate but not respondent No.5 and the other respondents are endorsed as not necessary parties being co-defendants. Respondent No.1 is the plaintiff, respondent No.5 is the Wakf Board and co-defendant among the revision respondents. Heard the learned counsel for the petitioner and respondent No.1 and perused the grounds urged in the revision and the impugned dismissal order dated 29.08.2017 of the Waqf Tribunal in I.A.No.136 of 2016 filed under Order VII Rule 11 clauses (a) to (d) of C.P.C. for rejection of the plaint covered by O.S.No.745 of 2016 (old O.S.No.68 of 2015).

2. A perusal from the entire material with reference to the elaborate hearing of the revision indicates it no way requires interference with the impugned order with reference to the Land Grabbing Tribunal order vis-à-vis the Division Bench judgment and the review judgment of the Division Bench and the order of the Apex Court by sitting against that review judgment leave apart a whole reading of the plaint alone if constitutes the cause of action or not to be culled out and not from the defence raised even in the application for rejection of the plaint for any of the defendants so also for bar of limitation being mixed question of fact and law. Thereby the observations of the lower Court in dismissing the

application particularly at para 24 that there is a cause of action and suit is not barred by law, will not come in the way to the defence of the defendants in filing their written statement in detail, for what is the application filed for rejection of the plaint by raising points is not the be all and end all much less take away their valuable defence to be incorporated in their written statement thereby, they can ask by virtue of this order, the Tribunal to frame specific issue and answer the same with reference to the factual and legal aspects.

3. Accordingly, the Civil Revision Petition is disposed of.

4. Miscellaneous petitions pending consideration, if any, in this case shall stand closed in consequence. There shall be no order as to costs.

Date: 06.12.2017

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DR. B. SIVA SANKARA RAO, J

