

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP (NPD) No.186 of 2018

&

C.M.P.No.1056 of 2018

Sheik Abdul Rahim

.. Petitioner

-Vs-

1.M/s. Koothanallur Faizul Baquiyath Wakf,
Managed by Periya Pallivasal Koothanallur,
Rep. by its Muthavalli/Secretary,
Mr.A.A.I. Abdul Mohammed
Plot No.11, 7th Cross Street,
Renga Reddy Garden,
Neelangarai,
Chennai - 600 115.

2.Mr.J.M.A. Sheik Abdul Khader

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and Decretal Order dated 21.12.2017 passed in I.A.No.13355 of 2017 in O.S.No.5131 of 2017 by the Hon'ble Wakf Tribunal, (I Assistant City Civil Court, Chennai).

For Petitioner : Mr.Rajkumar Paul

For R1 : Mr.A.Natarajan, Standing Counsel

For Wakf Board : Mr.V.Lakshminarayanan

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ORDER

This Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and Decretal Order dated 21.12.2017 passed in I.A.No.13355 of 2017 in O.S.No.5131 of 2017 by the Wakf Tribunal, I Assistant City Civil Court, Chennai.

2.The petitioner has filed a suit in O.S.No.5131 of 2017 before the City Civil Court at Madras and he has also filed an application in I.A.No.13355 of 2017 under Order 39 Rule 1 and 2 of the Code of Civil Procedure for an ad-interim injunction. The aforesaid ad-interim injunction application filed by the petitioner was dismissed by the Court below. Challenging the aforesaid order passed in I.A.No.13355 of 2017, the present Civil Revision Petition is filed before this Court.

3.At the time of admission, Mr.A.Natarajan, learned Standing Counsel entered appearance for the first respondent/Caveator. This Court has directed to serve notice to Mr.V.Lakshminarayanan, learned Standing Counsel for Wakf Board to assist the Court. On notice, Mr.V.Lakshminarayanan, appeared in the Civil Revision Petition.

4.Mr.V.Lakshminarayanan, learned standing counsel for the first respondent would submit that the said suit filed by the petitioner itself

is not maintainable before the Court below. The petitioner has filed a proper petition under Section 83(2) of the Wakf Act before the Wakf Tribunal. Therefore, the above suit filed by the petitioner is not maintainable under Section 85 of the Wakf Act, wherein, it is clearly stated that there is a bar for the Civil Court to entertain the suit.

5. After the arguments, the learned counsel for the petitioner seeks this Court to mould the relief and to permit the petitioner to present the petition under Section 83(2) of the Wakf Act before the Wakf Tribunal.

6. Mr. A. Natarajan, learned Standing Counsel appearing for the Caveator would also submit that the present Civil Revision Petition is liable to be dismissed and it is fairly submitted that a direction may be issued to the Court below to return the plaint and also a direction may be issued to the petitioner to present the petition in the proper format before the Wakf Tribunal under Section 83(2) of the Wakf Act.

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7. The parties concerned has no objection for granting such relief to the petitioner. By consent of parties, this Court is inclined to pass the following orders:

1.The I Assistant City Civil Court is directed to return the plaint to the petitioner immediately on filing an appropriate application or memo along with the order of this Court.

2. On receipt of the said plaint papers, it is open to the petitioner to present the petition in a proper format under Section 83 (2) of the Wakf Act, before the Tribunal, within a period of one week thereafter.

8.In the event of the said petition presented by the petitioner, the Wakf Tribunal shall consider the same on merits without being influenced by the order in this Civil Revision Petition.

9.This Civil Revision Petition is disposed of with the above said directions. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

01.02.2018

Speaking/Non-Speaking order

Index :Yes/No

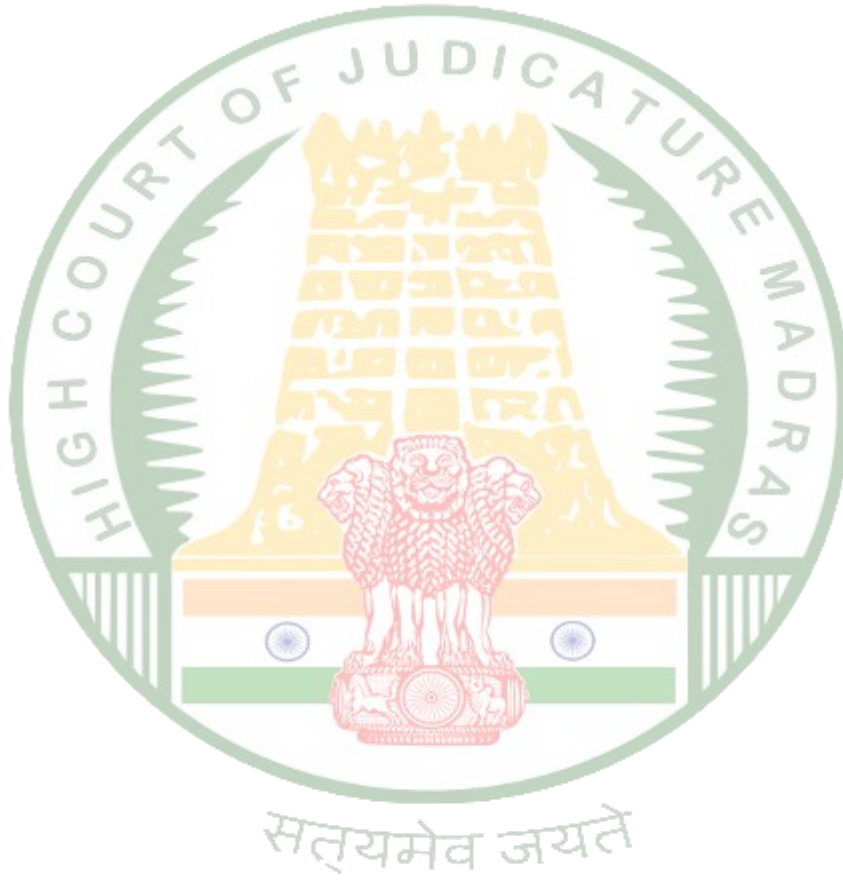
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Note: Issue Order Copy on 05.02.2018

To

The I Assistant City Civil Court,
Chennai.



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D. KRISHNAKUMAR J.,

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