

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2018

C O R A M

THE HONOURABLE Ms.JUSTICE P.T.ASHA

Civil Revision Petition (NPD) No.103 of 2006
and C.M.P.No.886 of 2006

1. Felisc Desouses
2. Arul Selli Mary
3. Mary Fathima
4. Lilly
5. Regina Mary
6. Shella Marry

... Petitioners

Vs.

1. Jumma Mosque - Chrompet,
by its Muthavallees,
T.S.Thulkarunai
2. Katharine
3. Sebastin
4. Sundar
5. Mary
6. Jayaseeli
7. Shanthi
8. Dennis
9. Arokiamary
10. Martin
11. Victoriya

... Respondents

Prayer: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code against the order and decretal order in E.P.No.74 of 1993 in O.S.No.490 of 1965, on the file of the District Munsif Court, Tambaram, dated 02.08.2005.

For Petitioners : Mr.V.Lakshminarayanan

For Respondents : ---

O R D E R

The above Civil Revision Petition is filed challenging the Order dated 02.08.2005 in E.P.No.74 of 1993 in O.S.No.490 of 1965 on the file of the District Munsif Court, Tambaram.

2. The Defendants 18 to 23 are the petitioners before this Court and they have challenged the Order dated 25.08.2005, directing delivery of the suit property to the decree holder. The defense that is raised by the revision petitioner in the execution petition is that the Civil Court cannot execute the decree, as jurisdiction is only vested with the Waqf tribunal. This defense was negatived by the learned District Munsif, on the ground that the jurisdiction continue to vest with the Civil Court.

3. Heard Mr.V.Lakshminarayanan, appearing on behalf of the revision petitioners.

4. Section 7(5) of the Waqf Act reads as follows:-

7. Power of Tribunal to determine disputes regarding ¹[auqafs].-

(5) The Tribunal shall not have jurisdiction to determine any matter which is the subject-matter of any suit or proceeding instituted or commenced in a Civil Court under sub-section (1) of section 6, before the commencement of this Act or which is the subject-matter of any appeal from the decree passed before such commencement in any such suit or proceeding or of any application for revision or review arising out of such suit, proceeding or appeal, as the case may be.

5. It is seen that the suit is of the year 1965 and execution petition is of the year 1993. Therefore, taking note of the provisions of Section 7(5) of the Waqf Act, it is clear that the Civil Court has jurisdiction to consider and pass Orders in the execution proceeding. Apart from this defense there is no other defense that has been pleaded by the revision petitioner. I find no infirmity in the Order of the learned District Munsif and the Civil Revision petition fails.

7. In the result the Civil Revision Petition is dismissed.
There shall be no Order as to costs. Consequently, connected
Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy//

Sub Assistant Registrar

msvm

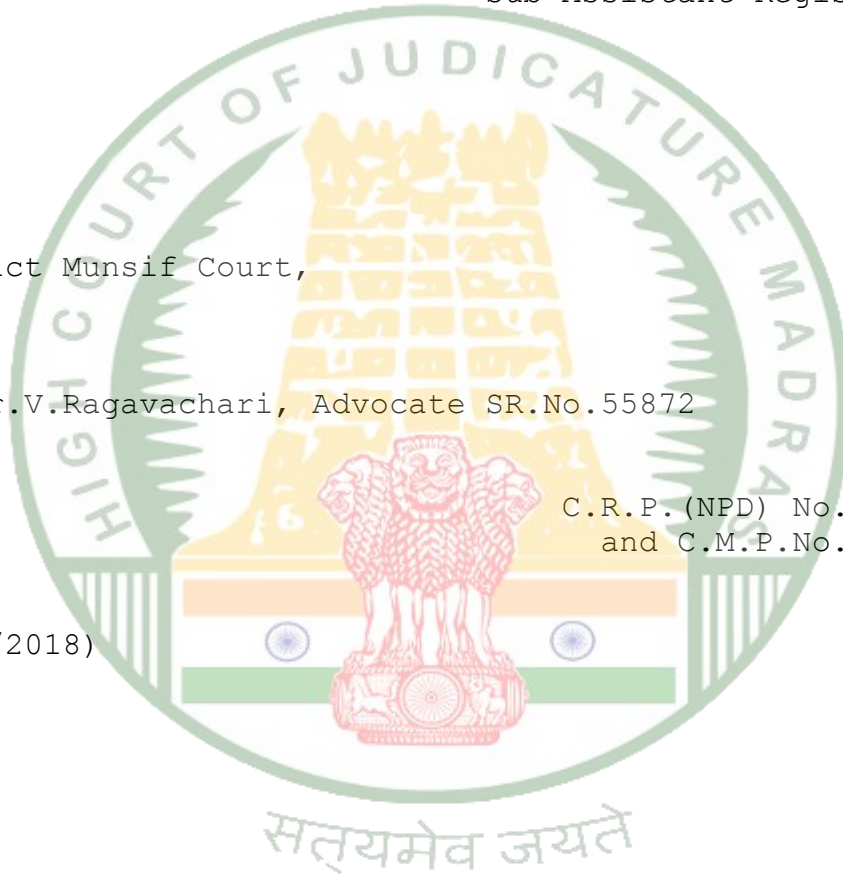
To

The District Munsif Court,
Tambaram.

+1cc to Mr.V.Ragavachari, Advocate SR.No.55872

C.R.P. (NPD) No.103 of 2006
and C.M.P.No.886 of 2006

VD (CO)
RMP (20/09/2018)



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