



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Fifth day of October Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice C.V.KARTHIKEYAN

**CMP(MD) No.10759 of 2017 & 3687 & 3722 OF 2018
IN
SA No.436 of 2001**

CMP(MD) Nos.10759/2017 IN SA No.436 of 2001:

1 E.S.SIKKANDAR (DIED)
2 JANAB E.S.SYED YOUSUFF
3 JANAB E.S.SYED RASOOL

... PETITIONERS/
PROPOSED APPELLANTS 2 & 3

Vs

1 A.SYED MOHIDEEN
2 A.SYED SALEEM
3 A.SURAIYA
4 MINOR.RAHAMATH
5 MINOR JASMINE
6 MINOR.SEENI MOHAMMED

... RESPONDENTS/RESPONDENTS

7 S.ALIYAR SHA
8 S.LIYAKATH ALISHA
9 S.SAFIYULLAH
10 S.BARKATH ALI

11 THE CHIEF EXECUTIVE OFFICER,
TAMIL NADU WAQF BOARD,
NO.1 JAFFER SIRANG STREET,
VALLAI SEETHAKADHI NAGAR,
CHENNAI-01

... RESPONDENTS 7 TO 11/PROPOSED
RESPONDENTS 7 TO 11

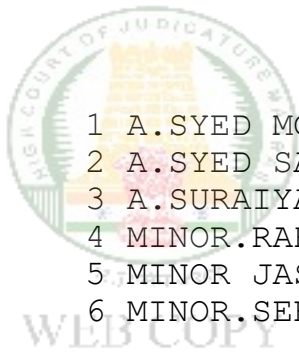
Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to substitute the name of "E.S.Sikkandar" by the name of "Janab E.S.Syed Yousuff" in the above Memorandum of Second Appeal.

CMP(MD) Nos.3687 of 2018 IN SA No.436 of 2001:

1 E.S.SIKKANDAR (DIED)
2 JANAB E.S.SYED YOUSUFF
3 JANAB E.S.SYED RASOOL

... PETITIONERS/
PROPOSED APPELLANTS 2 & 3

Vs



1 A.SYED MOHIDEEN
2 A.SYED SALEEM
3 A.SURAIYA
4 MINOR.RAHAMATH
5 MINOR JASMINE
6 MINOR.SEENI MOHAMMED

... RESPONDENTS/RESPONDENTS

7 S.ALIYAR SHA
8 S.LIYAKATH ALISHA
9 S.SAFIYULLAH
10 S.BARKATH ALI

11 THE CHIEF EXECUTIVE OFFICER,
TAMIL NADU WAQF BOARD,
NO.1 JAFFER SIRANG STREET,
VALLAI SEETHAKADHI NAGAR,
CHENNAI-01

... RESPONDENTS 7 TO 11/PROPOSED
RESPONDENTS 7 TO 11

Pleased to implead the proposed respondents 7 to 11 as respondents 7 to 11 in the above Memorandum of Second Appeal and thus render justice.

CMP(MD) No.3722 of 2018 IN SA No.436 of 2001 :

A.SYED SALEEM

... PETITIONER/2nd RESPONDENT

Vs

1 E.S.SIKKANDAR (DECEASED)
2.E.S.SYED YOUSUFF
3 E.S.SYED RASOOL

... RESPONDENTS/PROPOSED RESPONDENTS
IN CMP.No.10579/2017

4 A.SYED MOHIDEEN
5 A.SURAIYA
6 MINOR.RAHAMATH
7 MINOR JASMINE
8 MINOR.SEENI MOHAMMED
(Minors respondents 6 to 8 rep.by
Natural guardian and their mother suraiya)

9 S.ALIYAR SHA
10 S.LIYAKATH ALISHA
11 S.SAFIYULLAH
12 S.BARKATH ALI

13 THE CHIEF EXECUTIVE OFFICER,
TAMIL NADU WAQF BOARD,
NO.1 JAFFER SIRANG STREET,
VALLAI SEETHAKADHI NAGAR,
CHENNAI-600 001

... RESPONDENTS/RESPONDENTS



Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to direct the 13th respondent to collect the rent and advances from the shops and to enable to safeguard the Dhargah right till the disposal of the above second appeal and thus render justice.

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PRAYER IN S.A.No.436 of 2001 :

To set aside the decree and judgment dated 24.03.2000 rendered in A.S.No.48 OF 1997 on the file of the Principal District Judge, Madurai, confirming the decree and judgment dated 11.08.1993 rendered in O.S.No.637 of 1990 on the file of the Principal Subordinate judge, at Madurai, by allowing this Second Appeal and to grant such further relief of reliefs that this Honourable Court.

ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of M/S.P.JESSI JEEVA PRIYA, Advocate for the petitioners IN CMP(MD)Nos.10759/2017 & 3687/2018 and for R2 & R3 in CMP(MD)No.3722 of 2018 and of Mr.M.V.VENKATASESHAN, Advocate for R1 in CMP(MD)Nos.10759/2017 & 3687/2018 and for R4 in CMP(MD)No.3722 of 2018 and Mr. MR.MADHAVA GOVINDAN for MR.S.SOMASELVAKUMAR, Advocate for the R2 in CMP(MD)Nos.10759/2017 & 3687/2018 and for petitioner in CMP(MD)No.3722 of 2018 and MR.T.S.MOHAMMED MOHIDEEN, Advocate for R11 in IN CMP(MD)Nos.10759/2017 & 3687/2018 and for R13 in CMP(MD)No.3722/2018, the court made the following order:-

The suit had been instituted for declaration of title and for recovery of possession by E.S.Sikkandar in his capacity as Muthavalli of Madurai Hazarat Aliyar Sha Dharga. As against the judgment and decree in A.S.No.48 of 1997, before the Principal District Court, Madurai, the plaintiff viz., E.S.Sikkandar had filed the present Second Appeal. Unfortunately, pending the Second Appeal, E.S.Sikkandar died.

2.Consequently, C.M.P.(MD).No.10759 of 2017, had been filed seeking to bring on record Janab E.S.Syed Yousuff, Janab E.S.Syed Rasool as Muthavallis of Madurai Hazarat Aliyar Sha Durga. In the said application, the seventh respondent viz., S.Aliyar Sha, was shown as the son of late E.S.Sikkandar.

3.Mr.T.S.Mohammed Mohideen, learned counsel appearing for the Tamil Nadu Wakf Board informed that the Wakf Board had appointed Mr.S.Aliyar Sha, as the Muthavalli of the Madurai Hazarat Aliyar Sha Durga. In view of that development, C.M.P.(MD).No.10759 of 2017, does not survive and it stands dismissed. However, liberty is given to the petitioners to move similar application, if necessary.

4.C.M.P.(MD).No.3722 of 2018, had been filed by the second respondent in the Second Appeal seeking a direction to the 13th respondent viz., the Chief Executive Officer, Tamil Nadu Wakf Board, to collect the rent and advances from the shops and to safeguard the Dharga rights. Mr.T.S.Mohammed Mohideen, learned counsel appearing for the Wakf Board had already informed the Court that Mr.S.Aliyar



Sha, had been appointed as the Muthavalli of the Dharga, in accordance with law. At this stage, this application does not survive and the said Muthavalli has to take charge and do the needful to protect the interest of the Dharga. It is dismissed.

5.C.M.P.(MD).No.3687 of 2018 had been filed by the petitioners to implead the proposed respondents 7 to 11 as respondents 7 to 11 in the Second Appeal. However, in view of the fact that Muthavalli has been appointed as informed by Mr.T.S.Mohammed Mohideen, learned counsel, the present application does not survive and the same also stands dismissed.

6.In the result, C.M.P.(MD).Nos.3722, 3687 of 2018 and 10759 of 2017 are dismissed.

sd/-

05/10/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE PRINCIPAL SUBORDINATE JUDGE, MADURAI

2 THE PRINCIPAL DISTRICT JUDGE, MADURAI.

+3.CC.to MR.T.S.MOHAMMED MOHIDEEN,Advocate SR.Nos.19040,19025,19024

ORDER

IN

CMP(MD) No.10759 of 2017 &
3687 & 3722 OF 2018

IN

SA No.436 of 2001

Date :05/10/2018

PK/RR/SAR-2/11.10.2018 : 4P/6C