



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

Monday, the Sixteenth day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.SUNDAR

CMP(MD) No.3723 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 C.M.P.No.10759 of 2017

4 A.SYED MOHIDEEN

5 A.SURAIYA

6 MINOR.RAHAMATH

7 MINOR JASMINE

8 MINOR.SEENI MOHAMMED

(MINORS RESPONDENTS 6 TO 3 REP.BY

NATURAL GUARDIAN AND THEIR MOTHER SURAIYA)

9 S.ALIYAR SHA

10 S.LIYAKATH ALISHA

11 S.SAFLYULLAH

12 S.BARKATH ALI

13 THE CHIEF EXECUTIVE OFFICER,

TAMIL NADU WAKF 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 grant an order of interim injunction against the respondents 2 and 3 not to alienate or encumber or let out the wooden shops and other shops or not to collect rent and advanced from the three shops till the disposal of the above second appeal

Prayer in SA. 436/ 2001 :

To prefer this Memorandum of Grounds of Second Appeal against the Judgment and Decree dated 24.3.2000 and made in A.S.No.48 of 1997 on the file of the Principal District Judge, Madurai confirming the Judgment and decree dated 11.8.1993 and made in O.S.No.637 of 1990 on the file of Principal Subordinate Judge, Madurai.



the arguments of MR.N.MADHAVAGOVINDAN, for M/S.S.SOMASELVAKUMAR, Advocate for the petitioner and of MR.S.VELLAICHAMY for MR.M.V.VENKATASESHAN, Advocate for R4 and M/S.P.JESSI JEEVA PRIYA, Advocate for R2 & R3 the court made the following order:-

Suit pertains to a Wakf which goes by the name Hazarat Aliya Sha Durga, which shall herein after be referred to as 'said Wakf'.

2.Wakf registration certificate dated 07.06.1985 has been placed before me. The Wakf registration certificate shows that the beneficiaries are the descendants.

3.Be that as it may, there is no dispute or disagreement between the counsel before me that the suit property is corpus of said Wakf.

4.To be noted, learned counsel Ms.P.Jessi Jeeva Priya is before Court on behalf of erstwhile appellant in the second appeal and for petitioner No.3 herein (Janab E.S.Syed Rasool) in CMP(MD)No.10759 of 2017.

5.Mr.S.Vellaichamy learned counsel representing the counsel on record Mr.M.V.Venkataseshan for first respondent in the main second appeal A.Syed Mohideen is before me.

6.Mr.N.Madhavagovindan, learned Counsel representing Mr.S.Somaselvakumar, counsel on record for Respondent 2 in the main second appeal (A.Syed Saleem) and petitioner in the instant CMP ie., CMP(MD)No.3723 of 2018 is before this Court.

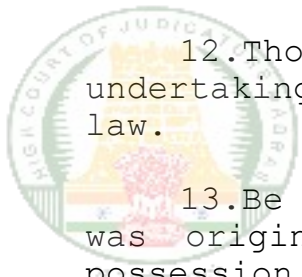
7.To be noted along with this instant petition, CMP being CMP (MD)No.10759 of 2017 has been taken out by the third respondent in the instant petition with a prayer to bring Janab E.S.Syed Yousuff on record in place of deceased sole appellant.

8.Pleadings are yet to be completed in the said CMP, but CMP is being opposed.

9.Under such circumstances, Mr.N.Madhavagovindhan, learned counsel for petitioner herein submits that this petition has been taken out as there is imminent possibility of properties which are corpus of said Wakf being alienated. Learned Counsel submits that there is immediacy and urgency in this regard. It is his specific case that the 3rd respondent in this CMP Janab E.S.Syed Rasool is attempting to alienate. Ms.P.Jessi Jeeva Priya learned counsel representing E.S.Syed Rasool (petitioner in CMP(MD)No.10759 of 2017 referred to supra) submits on instructions, that her client has not alienated the suit properties and that her client shall not do so pending further orders from this Court.

10.To be noted, this submission is made on instructions.

11.The aforesaid submission is recorded. That puts to rest the basis on which the instant CMP has been filed.



12. Though obvious, it is made clear that any breach of this undertaking will be visited with consequences in accordance with law.

13. Be that as it may, it is necessary to state that the suit was originally filed for declaration of title and recovery of possession qua said Wakf properties. Trial Court granted the prayer for recovery of possession. This order was confirmed in a regular first appeal by the first appellate Court.

14. This second appeal is pertaining to one limb of the prayer recording recovery of possession alone. To be noted, the respondents in this second appeal are not assailing the decree for declaration of title qua said Wakf.

15. The aforesaid facts have been set out for better appreciation in this interim order.

16. Owing to all that have been set out supra, this petition is disposed of recording the aforesaid undertaking.

17. Counter in other CMPs, ie., CMP(MD) Nos. 10579 of 2017 3687 of 2018 and 3722 of 2018, in two weeks, ie., by 25.04.2018

18. List the matter on 25.04.2018.

sd/-
16/04/2018

/ TRUE COPY /

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

TO

1 THE PRINCIPAL DISTRICT JUDGE,
MADURAI.

2 THE PRINCIPAL SUBORDINATE JUDGE,
MADURAI.

+1. C.C. to M/S.S. SOMASELVAKUMAR Advocate SR.No.6258

ORDER
IN
CMP(MD) No.3723 of 2018
IN
SA No.436 of 2001
Date :16/04/2018