



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 02.02.2018

CORAM:

THE HON'BLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD).No.539 of 2011 (PD)

and

M.P(MD).No.1 of 2011

Syed Abdul Kadir Thaikka Sahib ... Petitioner/Plaintiff

-vs-

1.K.M.S.Muthu Vappa

2.Kalai Rasool Maideen

3.K.A.Mohamed Mohideen

... Respondents/Defendants

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order dated 07.03.2011 passed in Unnumbered O.S.No. Of 2011 by the District Munsif, Tirunelveli.

For Petitioner : Mr.K.Chengizkhan

For Respondents : Mr.H.Arumugam

O R D E R

This civil revision petition has been filed to set aside the order dated 07.03.2011 passed in numbered O.S.No..... of 2011 on the file of the District Munsif, Tirunelveli and the said suit was sought to be filed seeking the relief of permanent injunction restraining the defendants their agents, men and their servants from in any way interfering with the administration of Kalvath Nayagam Thaikka, Melappalayam.

2.It is the case of the revision petitioner/plaintiff that on the basis of the objection made by the first respondent/first defendant, the father of the revision petitioner/plaintiff was removed from the post of Haqdar by the Wakf Board and the said order was confirmed by the wakf Tribunal also. Challenging the removal, the revision petitioner's father filed a revision in CRP.No.254 of 2003 before the High Court, in which, stay was granted and the petitioner/plaintiff's father continued to hold the post of Haqdar till his death in the year 2004.

3.It is the further case of the petitioner that subsequently when the above revision petition was taken up for hearing on 26.10.2010, this Court had dismissed the same as abated with a direction to the petitioner herein/plaintiff to approach the Wakf Board for appropriate relief. Accordingly, the petitioner/plaintiff had filed an application before the Wakf



Board for recognizing him as Muthawalli and the said petition is still pending before the Wakf Board.

4. It is further submitted by the revision petitioner that the respondents herein misguided the Court stating as if the proceedings before the Wakf Board stood ended at the time of filing the suit and therefore, the first respondent/first defendant was appointed as Muthawalli. Since the first respondent/first defendant attempted to interfere with the peaceful administration of the Thaikka, the petitioner has filed the suit seeking permanent injunction against the respondents/defendants and henchmen. The trial Court has refused to number the suit and returned the same on the ground that since the property belongs to Wakf Board, remedy lies somewhere. Aggrieved by the said return, the petitioner has come before this Court.

5. Heard both sides.

6. It is seen that the petitioner/plaintiff filed the suit seeking the relief against the respondents/defendants from interfering with the administration of the Kalvath Nayagam Thaikka, Melapalayam, Tirunelveli and the petitioner claims himself as Haqdar till now. The petitioner seeks right over the administration of the Kalvath Nayagam Thaikka, Melapalayam, Tirunelveli. The petitioner states that he is not claiming right over the administration of the suit property as there is no dispute regarding the administration of the Muthawalli or Haqdar and the dispute has been raised only as against the third parties.

7. Admittedly, the property belongs to Wakf Board and the petitioner himself has stated that he has been duly appointed as Haqdar and the first respondent/first defendant has been appointed as Muthawalli by the Wakf Board even on the date of filing of the suit. Since the dispute revolves around administration of the Thaikka, the appointments and the interference by the respondents/defendants, the dispute could merely be agitated before the appropriate forum. Therefore, there is no illegality in the order passed by the Trial Court and the same does not require any interference by this Court.

8. Accordingly, this Civil Revision Petition is dismissed with a liberty to the petitioner/plaintiff to approach the appropriate forum. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/

Assistant Registrar (CS-I)

/True copy/



To:

1.The District Munsif, Tirunelveli.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai. (2 COPIES)

+1cc to Mr.H.ARUMUGAM, Advocate, SR.No. 46068

+1cc to Mr.G.PRABHU RAJADURAI, Advocate, SR.No.46258

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RMK

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