

THE HON'BLE SRI JUSTICE M. SATYANARAYANA MURTHY

CIVIL REVISION PETITION No.3250 of 2014

ORDER:

This Civil Revision Petition, under Article 227 of the Constitution of India, is filed challenging the Order dt. 07.08.2014 in I.A.No.22 of 2013 in O.S.No.120 of 2011 passed by the Junior Civil Judge, Yemmignur, dismissing the application filed under Order VII Rule 11(d) of CPC.

The petitioners/defendants filed a Petition under Order VII Rule 11 (d) of CPC to reject the plaint on the ground that the Civil Court lacks inherent jurisdiction to entertain the suit as the property belongs to wakf property and in view of the bar under Section 83 and 85 of the Wakf Act. But, the Court below dismissed the petition holding that the Court has got jurisdiction to decide the dispute as per judgments relied by the learned counsel for the petitioner and the law declared therein. Even otherwise, the Court lacks jurisdiction, the Court is required to enquire and decide whether the Court has got inherent jurisdiction by framing an issue and try the same as preliminary issue by exercising power under Order XIV Rule 2 (2) (a) CPC and decide the inherent jurisdiction of the Court and pass appropriate Orders either under Order VII Rule 11 or under Order 7 Rule 10, 10-A CPC, consequently, this Civil Revision Petition is liable to be allowed.

Accordingly, this Civil Revision Petition is allowed setting aside the Order dt.07.08.2014 in I.A.No.22 of 2013 in O.S.No.120 of 2011 on the file of the Junior Civil Judge, Yemmiganur, while remanding the matter to the trial Court for framing preliminary issue as aforesaid and to proceed in accordance with law.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

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M. SATYANARAYANA MURTHY,J

Dt: 08-02-2018

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