

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2019

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A.No.1816 of 2019
and
C.M.P.No.12314 of 2019

1.The Director General,
Archaeological Survey of India,
Janpath, New Delhi - 110 011.

2.The Superintending Archaeologist,
Archaeological Survey of India,
Chennai Circle,
Fort St. George,
Chennai 600 009.

... Appellants/ Respondents 1 & 2

1.A.M.S.Ameenullah,
S/o.Late.A.M.Saibullah,
3/128, J.M.H.Main Road,
Nidur, Mayiladuthurai Taluk,
Nagapattinam District 609 203.

..1st Respondent/Petitioner

2.Union of India,
Rep. by its Secretary to Ministry of Culture,
Central Government,
Shastri Bhawan,
New Delhi 110 015.

..2nd Respondent/3rd Respondent

PRAYER : Appeal filed under clause 15 of Letters Patent against the order dated 10.04.2019 made in W.P.No.17348 of 2017 on the file of this Court.

W.P.No.17348 of 2017 :-Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus calling for the records of the 1st respondent in his proceedings bearing No.F.6-8/ 2017-Ant. dated 23.3.2017 quash the same and consequently direct the 3rd respondent to grant permit to any authority or agency authorized by the 3rd respondent to grant permit to any authority or agency

authorized by the 3rd respondent to take the petitioner Holy Quran Book in Arabic handwritten on hand-made paper bearing dimensions of height 2 centimetres and width 1.5 centimetres to the United Kingdom for testing its agency and giving a fair report as to the age and other allied details pertaining to the said Holy Quran book and for this purpose further permit the petitioner and his son to accompany the aforesaid.

For Appellants : Mr.G.Karthikeyan
Assistant Solicitor General

For Respondents: Mr.PL.Narayanan (for R1)
Mr.G.Rajagopalan (for R2)
Additional Solicitor General

J U D G M E N T

(Judgment of the Court was delivered by N.KIRUBAKARAN, J)

The appeal has been preferred by Archaeological Survey of India against the order passed by the learned single Judge in W.P.No.17348 of 2017 on 10.04.2019, permitting the parties to take samples from the Holy Quran possessed by the 1st respondent and send the same to the United Kingdom for testing and to get a report about the age and other details.

2.The facts of the case are as follows:-

The 1st respondent is in possession of the antique viz., handwritten Holy Quran on a handmade paper. To know the age of the said Holy Quran book, the 1st respondent wanted to send the sample of the same to the United Kingdom. Therefore, he has approached the appellant for taking a sample and send it for testing. The said request was rejected by the appellant by order dated 23.03.2017. The said order was challenged before the learned single Judge. After hearing the parties the learned single Judge granted the relief as prayed for, against which only the present appeal has been preferred.

3.Mr.G.Karthikeyan, learned Assistant Solicitor General appearing on behalf of the appellant would submit that the Quran in question is an antique as per Section 24 of the Antiquities and Art Treasures Act, 1972 and without damaging the Holy Quran, it is not possible to take samples. If the antique is destroyed or damaged, penalty leviable under Section 30 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958. If any sample is taken, it will damage or destroy the Holy Quran. In that event, it will amount to destroying the antique. Therefore, he would submit that the order of the learned single Judge cannot be complied with. He would further submit that there are

laboratories available in India and there is no necessity to send the sample to the United Kingdom.

4.However, Mr.PL.Narayanan, learned counsel appearing on behalf of the 1st respondent/writ petitioner would submit that the prayer itself is for permission to take sample paper from the Holy Quran book in Arabic, handwritten on hand-made paper and the sample measuring dimensions of height 2 cm width 1.5 cm from the book will not destroy or damage the Holy Quran. Moreover, in the handwritten book, one blank paper has been left. From the said paper, sample can be taken. He would further submit that there is no proper lab facilities available in India and he would rely upon the email dated 25.07.2015 sent by the Birbal Sahni Institute of Palaeo Sciences.

5.The learned single Judge after hearing the parties only directed the 2nd respondent to take two samples from the Holy Quran properly and seal the same adequately and hand over the samples to the 1st respondent/writ petitioner within a period of four weeks from that day and further directed the petitioner to send one sample to the Research Laboratory for Archaeology, University of Oxford and second sample to the Director, Birbal Sahni Institute of Palaeo Sciences, 53, University Road, Lucknow for carbon dating and testing.

6.As rightly pointed out by Mr.P.L.Narayanan, learned counsel appearing for the 1st respondent there cannot be any damage of the Quran and even samples could be taken from the blank paper in the handwritten Arabic Holy Quran and that will not damage the antique. Moreover, the lab facilities available are not advanced as compared to foreign countries as evident from the email dated 25.07.2015 sent by Birbal Sahni Institute of Palaeo Sciences. Hence samples have to be sent to Oxford University.

7.The Holy Quran is in possession of the 1st respondent and his intention is only to know the age of the Quran and therefore, there is nothing wrong in sending the samples as prayed for by the 1st respondent and as granted by the learned single Judge to the laboratories in Oxford University and Lucknow. Therefore, the prayer of the appellants is liable to be rejected.

8.Accordingly, the Appeal fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed. The appellants are directed to take samples properly and give it to the 1st respondent/writ petitioner within a period of three weeks from the date of receipt of a copy of this order. On receipt of the same, the 1st respondent shall send one sample to the Research Laboratory for Archeology, University of Oxford and

another sample to the Director, Birbal Sahni Institute of Palaeo Sciences, 53, University Road, Lucknow for carbon dating and testing, within a period of two weeks from the date of receiving the samples.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Director General,
Archaeological Survey of India,
Janpath, New Delhi - 110 011.

2.The Superintending Archaeologist,
Archaeological Survey of India,
Chennai Circle, Fort St. George,
Chennai 600 009.

3.The Secretary to Ministry of Culture,
Union of India, Shastri Bhawan,
New Delhi 110 015.

+1cc to Mr.PL.Narayanan, Advocate, SR.No.89896
+1cc to Mr.G.Karthikeyan, Advocate, SR.No.90088

W.A.No.1816 of 2019

Kak(04/11/2019)