

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2019

CORAM :

The HON'BLE MR.JUSTICE M.DURAI SWAMY

C.R.P.No.2751 of 2014
and M.P.No.1 of 2014

- 1.The Chairman,
Tamil Nadu Wakf Board, No.1, Jaffar Syrang Street,
Vallal Seethakadhi Nagar, Chennai - 600 001.
- 2.The Chief Executive Officer,
Tamil Nadu Wakf Board, No.1, Jaffar Syrang Street,
Vallal Seethakadhi Nagar,
Chennai - 600 001. Petitioners/Respondents 1 & 2
- Vs.
K.M.Shaik Naveeth Respondent/Applicant

Petition filed under Article 227 of the Constitution of India praying to strike off the Original Application in O.A.No.7 of 2014 on the file of the Wakf Tribunal/I Assistant City Civil Court, Chennai.

For Petitioners : Mr.Mohammed Fayaz Ali
For Respondent : No appearance

O R D E R

The respondents in O.A.No.7 of 2014 on the file of the Wakf Tribunal/I Assistant City Civil Court, Chennai, has filed the above Civil Revision Petition to strike off the proceedings before the Wakf Tribunal, Chennai in O.A.No.7 of 2014 from its file.

2.The respondent filed O.A.No.7 of 2014 to set aside the order dated 29.01.2014 passed by the petitioners invoking direct management of Pettai Anjuman - E - Islamiya Jamiya Masjid situated at Pettai, Namakkal Town, Namakkal District since the said order is against law and the principles of natural justice.

3.Mr.Mohammed Fayaz Ali, the learned counsel appearing for the petitioners submitted that the Original Application filed by the respondent before the Wakf Tribunal is not maintainable for the reason that the remedy open to the respondent is only by way of an appeal under Section 65 (2) of the Wakf Act, 1995.

3.1. In support of his contention, the learned counsel, relied upon the following judgments:

(i) 2011 (3) CTC 673 [1. Tamil Nadu Wakf Board rep. By its Chairman, No.1, Jaffar Syrang Street, Vallal Seethakadhi Nagar, Chennai - 600 001; 2. The Chief Executive Officer, Tamil Nadu Wakf Board, No.1, Jaffar Syrang Street, Vallal Seethakadhi Nagar, Chennai - 600 001 and 3. The Superintendent of Wakfs, Cuddalore - 512, Gandhi Road, Panruti Vs. 1. A. Sathik Ali; 2. A. Hussain and 3. M. B. Aziz Khan; 4. B. Ibrahimsa a Moosa] wherein this Court held that any person aggrieved over the action initiated under Section 65 (1) can file an appeal before the State Government under Section 65 (2) of the Wakf Act and the respondents cannot initiate proceedings before the Tribunal by claiming themselves as worshippers contending that in spite of availability of alternative remedy under the Act, they can still maintain the proceedings before the Tribunal.

(ii) 2010 (2) CTC 699 [1. Tamil Nadu Wakf Board, represented by its Chairman, No.1, Jaffar Syrang Street, Vallal Seethakadhi Nagar, Chennai - 600 001; 2. The Chief Executive Officer, Tamil Nadu Wakf Board, No.1, Jaffar Syrang Street, Vallal Seethakadhi Nagar, Chennai - 600 001; 3. The Wakf Superintendent, No.1, Town Hall Road, 2nd Floor, Pallivasal Complex, Madurai - 1 and 4. The Wakf Inspector, Periyakulam, Dindigul District Vs. Janab K. S. M. A. Mohamed Mansoor] wherein this Court held that although Section 83(2) of the Wakf Act gives wide power to the Tribunal to decide any dispute and is in nature of general superintendence over Wakf and its properties, is to be invoked only when no other remedy by way of revision or appeal is provided under the Act. Section 65 (2) deals with the revisional powers given to the State Government to satisfy itself of correctness, legality or propriety of notification issued by the Board. Therefore, in this circumstances, this Court held that the respondent can only approach the State Government in case being aggrieved by the order passed by the Board and the Original Application filed by the respondent under Section 83 (2) was struck off.

4. The ratio laid down by this Court in the above judgments relied upon by the learned counsel for the petitioners squarely applies to the facts and circumstances of the present case.

5. It is not in dispute that the respondent has filed the Original Application in O.A.No.7 of 2014 under Section 83 (2) of the Wakf Act. Since the respondent has got remedy by way of an appeal under Section 65 (2) of the Act, the Original Application filed by him under Section 83 (2) of the Act is liable to be struck off.

6.Following the ratio laid down in the above referred judgments, the proceedings initiated by the respondent in O.A.No.7 of 2014 before the Wakf Tribunal, Chennai is struck off. The Civil Revision Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

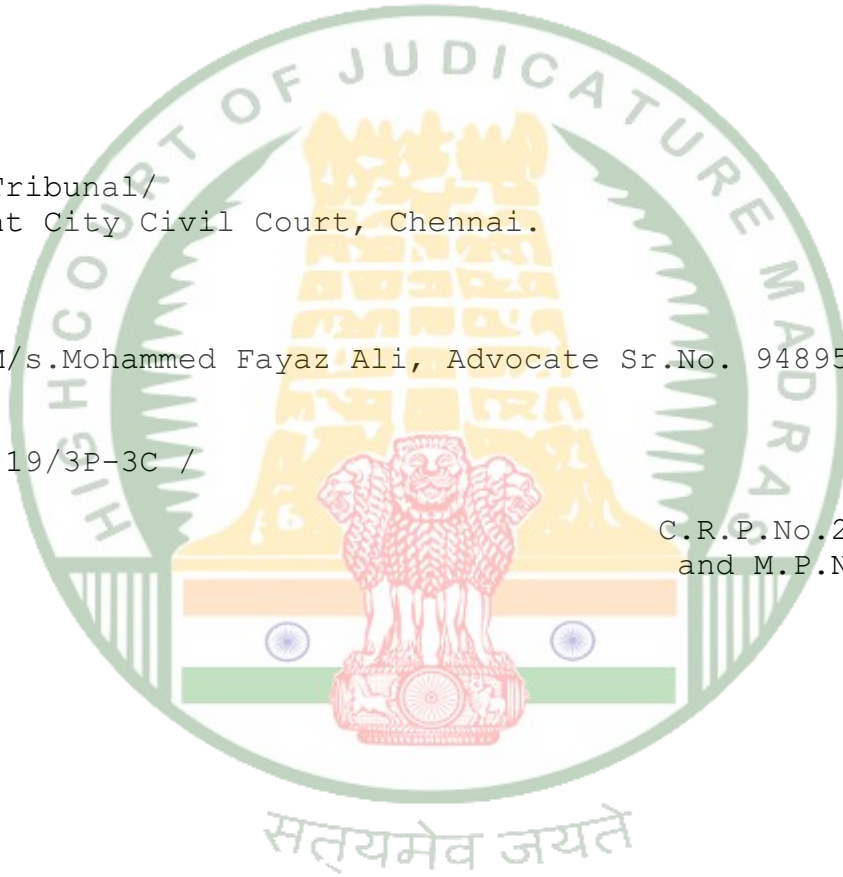
To

The Wakf Tribunal/
I Assistant City Civil Court, Chennai.

+1 cc to M/s.Mohammed Fayaz Ali, Advocate Sr.No. 94895

AKM/16.12.19/3P-3C /

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