



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.02.2020

CORAM :

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

C.R.P(NPD) (MD)No.1627 of 2013

and M.P(MD)No.1 of 2013

Silim Sha Durga,

Thuraiyur

Managed by Yeomia Pallivasal Thuraiyur,

Rep. By its Muthavalli Jb.A.Kamuruddin,

Yeomia Pallivasal,

Thuraiyur,

Tiruchirapalli District.

...Petitioner/Petitioner

Vs.

1.Thiru VE.R.Ramanathan Chettiar (died)

2.Tamil Nadu Wakf Board,

Chennai by its Chief Executive Officer Cum Secretary,

No.4, Santhom High Road,

Mylapore, Chennai - 600 004.

3.The State of Tamil Nadu,

Rep by the District Collector,

District Collector Office Building,

Tiruchirapalli - 620 001

... Respondents/Respondents

4.Senthil Kumar

5.R.Karthikeyan

(R4 & R5 are brought on record as lrs of the deceased first respondent vide court order dated 09.12.2016 made in M.P.No.1 of 2014 in CRP(MD)No.1627 of 2013)

PRAYER: Civil Revision Petition is filed under Section 83(2) & 83(9) Proviso of Wakf Act, 1995 against the judgment and decree dated 24.01.2012 made in Wakf O.P.NO.26 of 1999 on the file of Wakf Tribunal, Principal Sub-Court, Tiruchirappalli.

For Petitioner : Mr.A.Arumugam

For R3 : Mr.N.Shanmuga Selvam
Additional Govt.Pleader

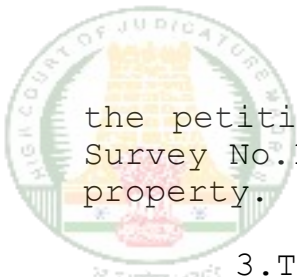
For R4 & R5 : Mr.V.Singan

For R2 : Mr.N.Mohideen Basha

O R D E R

The petitioner in Wakf O.P.No.26 of 1999, which failed to obtain declaration that the suit properties are Wakf properties and are being used as Kabarsthan (burial ground) by the Muslims of the Thuraiyur Town, has come up with this Civil Revision Petition.

2.Wakf Original Petition in W.O.P.No.26 of 1999 was filed by
<https://hcservices.ecourts.gov.in/hcservices/>



the petitioner claiming that property to an extent of 61 cents in Survey No.189/3 of Thuraiyur Town is Kabarsthan and as such, is Wakf property.

3.The contesting respondent namely, the first respondent, despite service, remained ex-parte. The petitioner, being Muthavalli of the Wakf, was examined as P.W.1 and Ex.A.1 to Ex.A.14 were marked on the side of the petitioner.

4. It was also stated that there was dispute regarding the nature of property and there was a meeting between the parties concerned at the instance of the Tahsildar, wherein both parties agreed to establish their title in court of law. It was pursuant to such agreement, the Original Petition was filed before the Wakf Tribunal.

5. Despite the contesting respondent remaining ex-parte, the Wakf Tribunal concluded that the petitioners therein have not proved that property in Survey No.189/4 is a Wakf property by producing satisfactory oral or documentary evidence. The only evidence that was produced was an order dated 11.01.2001 appointing the second petitioner as a Muthavalli of the Wakf and the photographs Ex.A2 to Ex.A.14.

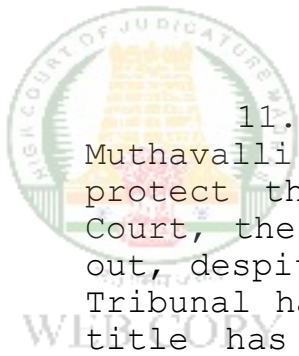
6. The photographs cannot prove title. The Wakf Tribunal rightly found that the petitioners have not proved their case as alleged in the petition. On the said findings, the Wakf Tribunal has dismissed the Original Petition.

7. Aggrieved, the petitioner has come up with this Civil Revision Petition.

8. I have heard Mr.A.Arumugam, learned counsel appearing for the petitioner, Mr.Shanmugaselvam, learned Additional Government Pleader appearing for the third respondent, Mr.V.Singan, learned counsel appearing on behalf of the legal representatives of the deceased first respondent, who have been impleaded as the respondents 4 and 5 in this revision petition and Mr.Mohideen Bash, learned counsel appearing for the Wakf Board.

9. Though four documents have been filed along with the Original Petition, none of them have been marked. The order passed appointing the second petitioner as the Muthavalli. Only the photographs have been marked before the Wakf Tribunal. A perusal of the documents produced would show that they are wholly insufficient to establish title of the Wakf over the suit property.

10. Mr.A.Arumugam, would however vehemently contend that the Wakf being a eternal minor, the Court should have protected its interest.



11. It is only because the Wakf being the eternal minor a Muthavalli is appointed to take care of the Wakf. If he/she fails to protect the Wakf property by placing proper evidence before the Court, the Court cannot go fishing for evidence. As already pointed out, despite the first respondent having remained ex-parte, the Wakf Tribunal has dismissed the Original Petition on the ground that the title has not been established. I do not think that the Wakf Tribunal can be faulted for such conclusion in the absence of any evidence. I do not find any material irregularity or non-consideration of any material evidence in the order of the Wakf Tribunal

12. This Civil Revision Petition has been filed under proviso of Section 83(2) and (9) of Wakf Act, 1995. As per the proviso, this Court can examine the records relating to any dispute, question or other matter which has been determined by the Tribunal as to the correctness, legality or propriety of such determination. Despite his best efforts, Mr.A.Arumugam is unable to project any irregularity or defect as to the correctness, legality or propriety of such determination. Therefore, I do not find any reason to interfere with the order of the Wakf Tribunal.

13. In fine, this Civil Revision Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

CM

To,

1. The Wakf Tribunal,
Principal Sub-Court, Tiruchirappalli.

2. The District Collector,
District Collector Office Building,
Tiruchirappalli - 620 001

C.R.P(NPD) (MD)No.1627 of 2013
and M.P(MD)No.1 of 2013

06.02.2020

SMA/12/03/2020/3P/3C