

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2021

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.R.P.(PD)No.2642, 2643, 2644 and 2645 of 2018

and

CMP Nos.15816, 15817, 15818 and 15819 of 2018

P.Prakash Bai Petitioner in CRP(PD)Nos.2642 & 2643/2018

R.Premchand Petitioner in CRP(PD)Nos.2644 & 2645/2018

Vs

Ashraf Ali Sha & Fard Ali Sha Trust
Rep by its Secretary Mr.V.Syed Jalabuddin
New No.17, Old No.9,
Paripurna Vinayagar Koil Street,
Mylapore, Chennai – 600 004 ... Respondent in all the above revisions

Civil Revision Petitions filed under Article 227 of the Constitution of India, prayed to set aside the fair and decretal order dated 13.04.2018 passed I.A.Nos.2091/2017 in O.S.No.3182 of 2014; 16569 of 2015 in O.S.No.3184 of 2014; 16631 of 2017 in O.S.No.3185 of 2014 and 16644 of 2017 in O.S.No.3183 of 2014 on the file of learned I Assistant Judge, City Civil Court, Chennai and allow the same.

For Petitioner in all the : Mr.Siddharth Bahety

revisions

For Respondent : No appearance

COMMON ORDER

Challenging the fair and decreetal order dated 13.04.2018 passed I.A.Nos.2091/2017 in O.S.No.3182 of 2014; 16569 of 2015 in O.S.No.3184 of 2014; 16631 of 2017 in O.S.No.3185 of 2014 and 16644 of 2017 in O.S.No.3183 of 2014 on the file of learned I Assistant Judge, City Civil Court, Chennai , the first defendant in all the suits have filed the the above revisions.

2. None appeared for the respondent. After hearing the learned counsel for the revision petitioners and perusing the materials available on record, this Court passed the following common order.

3. Learned counsel for the revision petitioners submits that Petitions were filed before the Court below under Order VII Rule 11 and Sections 21 and 151 of Civil Procedure Code to reject the plaint and the Court below dismissed the same stating that revision petitioners have not mentioned any reason as to how the plaint is under valued and no documents have been filed to prove the same.

The Court below further observed that whether the respondent Trust is a private or public and registered or unregistered will be decided only at the time of trial and no contra document is filed to disprove the ownership. Aggrieved by the same, the first defendant in the above suits have filed the present revisions.

4. Learned counsel for the revision petitioners submits that they are not disputing the plaintiff's ownership of the property, but, no document has been filed to prove that the plaintiff's Trust is a registered one and the revision petitioners are tenants under the plaintiff Trust. In Paragraph No.3 of the plaint, the plaintiff has stated that the Plaintiff Trust is a surveyed and notified Wakf and it is coming under the purview of Wakf Act, 1995 and the Wakf is under the supervision and control of Tamil Nadu Wakf Board and nothing has been mentioned in the plaint whether the plaintiff Trust is a registered one or not. Therefore, the plaint is liable to be rejected and it should not have been numbered by giving exemption from payment of court fee.

5. This Court perused the materials available on record.

6. On perusal of the records and the cause title, it appears Ashraf Ali Sha and Fard Ali Sha Trust is represented by its Secretary Mr.V.Syed Jalabuddin and the suit is filed in the name of the Trust, not in the name of any individual. Further, the averments made in paragraph 3 of the plaint clearly states that the plaintiff Trust is a surveyed and notified Wakf and it is coming under the purview of Wakf Act and it is under the supervision and control of Tamil Nadu Wakf Board and therefore, the plaintiff claimed exemption from payment of court fee.

7. With regard to the contention of the revision petitioners, whether the plaintiff Trust is a registered one or not for the purpose of payment of court fee by claiming exemption, this Court is of the view that the averments stated in the plaint as well as in the cause title would be suffice to grant exemption to the plaintiff Trust for payment of court fee. The issue whether the plaintiff Trust is a registered or not can be decided at the time of final hearing of the suits. In this regard, this Court directs the learned I Assistant Judge, City Civil Court, Chennai, to frame appropriate issues with regard to whether the plaintiff Trust is a registered or not and decide the same.

8. With the above direction, all the Civil Revision Petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

16.02.2021

Index: Yes/No
Speaking order/Non-speaking order

sr

To

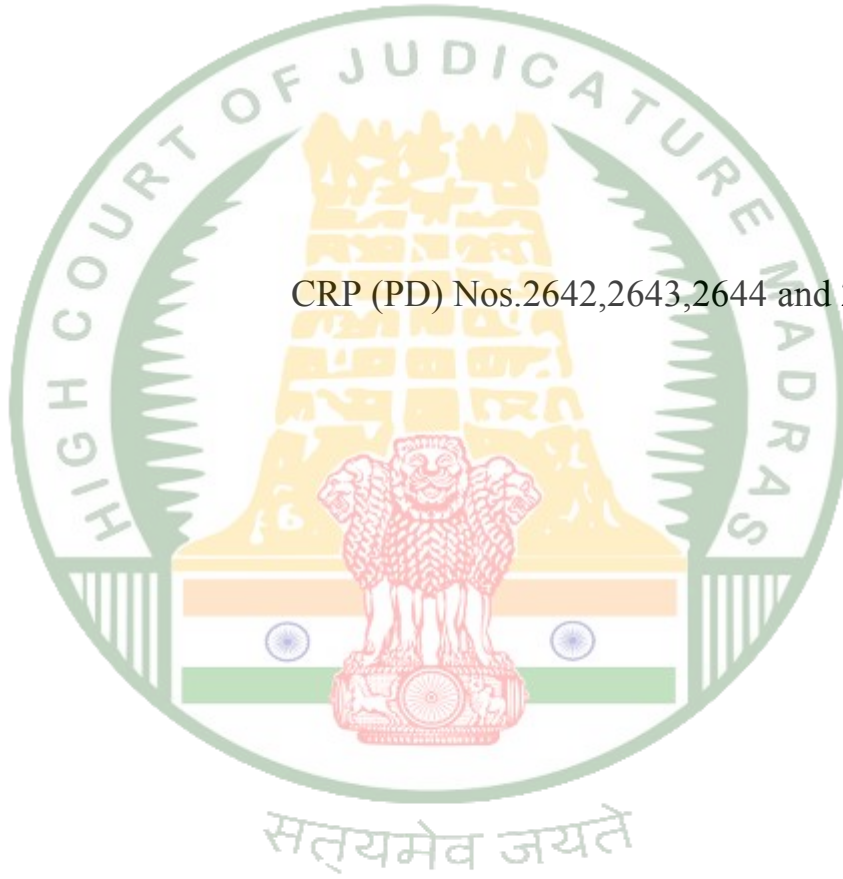
The I Assistant Judge,
City Civil Court,
Chennai



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KRISHNAN RAMASAMY,J.

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