



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.05.2021

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

C.R.P.No.1156 of 2021

and

C.M.P.No.8880 of 2021

Syed Hasan Quddhose Sahib

..Petitioner/Plaintiff

Vs.

1. M/S.Nagore Dargah, rep.by its  
Adhoc Board of Administrators,  
K.Alaudeen, IAS (Retd),  
S.F.Akbar District Judge (Retd),  
Nagore, Nagapattinam District.

2. The Manager  
Nagore Dargah  
Nagore, Nagapattinam District

..Respondents/Defendant

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order dated 29.04.2021 made in O.S.No.191 of 2021 on the file of District Court, Nagapattinam and further direct the District Court, Nagapattinam to number the suit and dispose it in accordance with law.

For Petitioner : Mr.S.Thirumavalavan

O R D E R

This Civil Revision Petition has been filed to set aside the order dated 29.04.2021 in Filing No.O.S.No.191 of 2021 on the file of District Court, Nagapattinam. By the impugned order dated 29.04.2021, the learned Judge has concluded that the Court has no jurisdiction to entertain the suit. In the light of the order passed by the Division Bench of this Court in W.A.No.1640 of 2016. The learned counsel for the petitioner submits that though the order of the Division Bench of this Court in a batch of cases in W.A.No.1640 of 2016, were disposed by the Division Bench of this Court on 08.06.2018, one of the party therein has filed an appeal before the Hon'ble Supreme Court in



SLP.No.39558/2018 and the Hon'ble Supreme Court has ordered status quo as on date.

2. It is further submitted that the status of the first respondent as to whether the first respondent comes within the meaning of Wakf Act, 1995 is yet to be determined and to attain finality, in view of the pending appeal against the order dated 08.06.2018 of the Division Bench.

3. I have perused the order dated 30.11.2018 passed by the Hon'ble Supreme Court. The Hon'ble Supreme Court has merely ordered as follows:-

"status quo, as of today, shall be maintained by the parties".

4. As per Section 9 of CPC, the Civil Courts shall try all suits of a civil nature, except where the cognizance of such suits is either expressly or impliedly barred. Section 85 of Wakf Act, makes it clear that no suit or other legal proceeding shall lie in any Civil Court in respect of any dispute, question or other matter relating to any wakf, wakf property or other matter which is required by or under the said Act to be determined by a Tribunal.

5. The Hon'ble Supreme Court in Board of Wakf, West Bengal & Another Vs. Anis Fatma Begum & Another reported in [(2010) 14 SCC 588], the Court was concerned with the inter-se controversy over the jurisdiction of the Civil Court and the High Court v/s a v/s the powers of the Wakf Tribunal under the Wakf Act, 1995. Paragraph 7 of the judgment of the Supreme Court reads as under:-

"...In our opinion, all matters pertaining to Wakfs should be filed in the first instance before the Wakf Tribunal constituted under Section 83 of the Wakf Act, 1995 and should not be entertained by the Civil Court or by the High Court straight away under Article 226 of the Constitution of India."

6. Thus, it is clear that all dispute relating to wakf or wakf property, eviction of tenancy or determination of lessee or lessor of such property under the Act, shall be within the jurisdiction of the aforesaid Tribunal alone. Therefore, I do not find any error in the order passed by the lower Court rejecting the request of the petitioner. Therefore, it is open to the petitioner to approach the Wakf Tribunal under Section 85 of Wakf Act, 1995.



7. With this above observation, the CRP is disposed of. No costs. Consequently, connected miscellaneous petition is closed. Registry is directed to return the original copy of the plaint to the counsel for the petitioner before the Wakf Tribunal for proper presentation of the plaint.

s/d-  
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

AT

To

1.The District Court, Nagapattinam.

2.The Section Officer

ER Section

High Court, Madras 104.

(for returning the plaint the Petitioner Counsel)

C.R.P.No.1156 of 2021 and

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NRL(CO)

SP(09/08/2021)