



C.R.P.(PD)No.848 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

CORAM :

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P.(PD)No.848 of 2022

and

C.M.P.No.4318 of 2022

1.R.Periyasamy

2.R.Elumalai

... Petitioners

..Vs..

1.M/s.Nawab Khairunnissa Begum Sahiba
Endowment and Hazarath Pappu Masthan Dargha,
Represented by its Muthavalli/President,
Dr.G.S.M.P.Khadri,
Having its office at,
No.31, Big Street, Triplicane,
Chennai 600 005.

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
Having his office at,
No.1, Jafar Syrang Street,
Vallal Seethakathi Nagar,
Chennai 600 001.

... Respondents

Prayer :- Civil Revision Petition filed under Article 227 of the
Constitution of India, to set aside fair and decreetal order dated

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19.11.2021 passed in I.A.No.54 of 2019 in O.S.No.5 of 2019 on the file of the Tamil Nadu Wakf Tribunal.

For Petitioners : Mr.K.Murali
For Respondents : Mr.L.Gavasakar
for R1
Mr.V.Raghavachari, for R2

ORDER

This Civil Revision Petition has been preferred challenging the order dated 19.11.2021 made in I.A.No.54 of 2019 in O.S.No.5 of 2019 on the file of the Tamil Nadu Wakf Tribunal.

2. The revision petitioners are the defendants 1 and 2 in the suit filed by the first respondent Wakf Board for recovery of possession and permanent injunction. During the pendency of the suit, the revision petitioners/defendants 1 and 2 filed an Interlocutory Application in I.A.No.54 of 2019 for production of some documents and the said application was dismissed. Aggrieved over the same, the petitioners have preferred this revision.

3.The learned counsel for the petitioners submitted that the petitioners are the absolute owners of the suit property. Since the plaintiff



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has filed the suit for recovery of possession and pleaded that they are the owners of the suit property, the documents were sought to be produced. In order to see whether the plaintiff has got the case, the learned trial Judge ought to have appreciated the merits of the application, but, dismissed the same.

4.The learned counsel for the respondents submitted that the revision petitioners/defendants 1 and 2 did not deny the title of the plaintiff. The attention of the Court was drawn to paragraphs Nos.5 and 8 of the written statement filed by the revision petitioners/defendants 1 and 2, wherein, it is stated that the defendants 1 and 2 admitted that the suit schedule property belongs to the Wakf and it is also a free burial ground for poor Muslims. However, it is claimed by the revision petitioners that they have a lease hold right in respect of land measuring to an extent of 208 sq ft. It is further pleaded that in view of the licence given to the revision petitioners by the Wakf, they became the absolute owners on the buildings thereon, which was constructed long back with the permission of the Government. Having pleaded so, the revision petitioners/



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defendants 1 and 2 cannot seek for the production of the documents listed in the petition now. In fact the listed Document No.1 pertains to the original title deed relating to the property of 5 Cawnies 20 grounds and 1233 sq.ft of land comprised in Survey Nos.1055/1 and 1055/2.

5. Even according to the revision petitioners, the claim is with regard to a tiny bit of 280 sq.ft. In such a context, it could only be an unnecessary harassment for the first respondent/plaintiff to produce their title deeds in respect of huge extent of the Wakf property. Since the first respondent being the plaintiff, the burden to produce the documents of their entitlement before the Court to substantiate the claim of the Wakf over the suit property. Supposing if the suit is filed without any *prima facie* title or documents, there may be some reason for the defendants 1 and 2 to seek for production of certain documents relating to the title of the plaintiff.

6. In this case, the revision petitioners themselves have admitted the title of the first respondent. In fact the defendants 1 and 2 alone



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have claimed confused rights like lease hold right, licence and even ownership. Since the defendants admitted the title of the first respondent/plaintiff, they need not seek for documents evidencing the title of the Wakf. On the other hand, the defendants 1 and 2 alone who had claimed a kind of multiple right over a tiny bit of 280 sq.ft, it is for them to prove the same by shouldering the burden shifted on them. Under such circumstances, it is right for the learned trial Judge to dismiss the application. I do not find any reason to interfere with the findings given by the learned trial Judge.

7. Therefore, this Civil Revision Petition is dismissed. However, the learned Tamil Nadu Wakf Tribunal is directed to complete the trial in O.S.No.5 of 2019 as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

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Speaking Order:Yes/No
ms

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R.N.MANJULA, J.

ms

To

- 1.The Tamil Nadu Wakf Tribunal,
Chennai.
- 2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
Having his office at,
No.1, Jafar Syrang Street,
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