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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

C O R A M

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(PD) NO.1921 OF 2020

AND

C.M.P.NO.11750 OF 2020

1.The President(Muthavalli)

Ahle Sunnath Jamath Jamia Masjid, No.42,
Gandhi Road 3, Arakkonam Town,
Ranipet District.

...Petitioner

Versus

1.A.Shabir Ahmed

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
Chennai.

...Respondents

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to strike off the plaint in Wakf O.S.No.51 of 2020 on the file of the Learned Principal Judge, Wakf Tribunal, Chennai.

For Petitioner : Mr.Jeremiah Gregory John

For R1 : Mr.P.Suriya Narayanan

For R2 : Mr.G.Mohamed Aseef

O R D E R

Petitioner seeks rejection of the plaint in OS.No.51 of 2020 on the file of Wakf Tribunal, Chennai. The reason for invoking the supervisory jurisdiction under Article 227 of the Constitution of India is that the original suit itself, on the face of it, is barred by limitation.

2. Mr.Jeremiah Gregory John, learned counsel for the petitioner would submit that the suit is barred by limitation since 90 years have gone by from the date of alienation of the property.



3. Mr. G.Mohamed Aseef, learned counsel appearing on behalf of the Wakf Board would submit that the declaration of the Wakf, having not been challenged there is no question of suit being barred by limitation. This is a question of fact which cannot be conveniently decided in the supervisory jurisdiction under Article 227 of the Constitution of India. Further more, the Hon'ble Supreme Court in 'Virudhunager Hindu Nadargal Dharma Paribalana Sabai and Others vs. Tuticorin Educational Society and Others reported in [(2019) 9 Supreme Court Cases 538]' has held that the High Court will not exercise its powers under Article 227 of the Constitution of India, when a remedy under Civil Procedure Code is available to the party. Though the subject matter of the suit is before the Wakf Tribunal, the provision under Order VII Rule 11 could still be invoked since it is only an Original Suit. Therefore, I see no ground to exercise the power under Article 227 of the Constitution of India. The Revision is therefore dismissed, reserving liberty to the petitioner to seek rejection of the plaint before the Wakf Tribunal. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

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To

1.The Chief Executive Officer,
Tamil Nadu Wakf Board,
Chennai.

2.The Principal Judge,
Wakf Tribunal,
Chennai.

+1cc to Mr.G.Mohammed Assef, Advocate Sr.No.3253

C.R.P. (PD)No.1921 of 2020
and
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MT (CO)
RVM(09/02/2022)