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C.R.P (MD) No. 729 of 2010

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 05.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

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and

CMP (MD) No. 9168 of 2017

1.Janab K. Abubacker (died)

2.A.Bibi John

3.A.Sherin Fathima

4.J.Mubarak Fathima

5.S.Mothijan

6.Humer Syed

7.R.Jameela Beevi

[P2 to P7 are brought on record as
Lrs of deceased sole petitioner,
vide Order dated 13.06.2019 made
in M.P(MD)No.1 of 2011]

... Petitioners

Vs

1.Katheeja Beevi

2.Kathoon Beevi

3.Mumtaj

4.The Tamil Nadu Wakf Board,
through its Executive Officer,
Kamarajar Salai, Chennai.



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[R4 impleaded as party respondent vide Court order dated 24.08.2020 made in CMP (MD) No. 6859 of 2019]

... Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the judgment and decree dated 06.01.2010 in O.S.No.4 of 2008 on the file of the Wakf Tribunal cum Principal Sub Judge, Tiruneveli.

For Petitioner : No representation
For Respondent : Mr.S.Yasar Arafat
Nos.1 and 3
For Respondent : Mr.V.Chandrasekaran
No.4

ORDER

This civil revision petition is filed under Section 83 of Tamil Nadu Wakf Act, 1996 r/w Section 115 of the Civil Procedure Code as against the judgment and decree made in O.S.No.4 of 2008 on the file of the Wakf Tribunal cum the Principal Subordinate Judge, Tirunelveli.

2.This petition was filed in the year 2010. When the petition was taken up for hearing on 17.09.2020 a representation was made on behalf of the petitioners that the 2nd respondent died and therefore prayed for time for



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bringing the legal heirs of the 2nd respondent on record.

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3. Thereafter this Court by order dated 10.12.2021 granted one more chance to the petitioners, to bring on record the legal heirs of respondents and if the steps are not taken by the petitioners, the civil revision petition will get automatically stand dismissed as against respondents 1 to 3.

4. Thereafter at the request of the learned counsel for the petitioners this civil revision petition was listed and adjourned to 19.01.2022, 14.02.2022, 03.03.2022, 13.03.2022, 27.04.2022, 23.06.2022 and 30.06.2022. On 30.06.2022 the learned counsel for the petitioners reported 'no instruction' and filed a memo dated Nil and this Court by recording the said memo, directed the registry to print the names of the petitioners in the cause list and accordingly, this civil revision petition is listed today in the names of the petitioners.

5. Today when this petition is taken up for hearing,



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there is no representation for the petitioners.

This petition is of the year 2010 and is pending for more than 12 years. Though it was reported a long back that respondents 1 to 3 died, the revision petitioners have not taken necessary steps to bring the legal heirs on record. The learned Counsel also filed a memo that there was no reply from the petitioners even after several letters being sent and information being passed

6.The learned Counsel has not filed any proof of service for having given sufficient notice to his clients. As per Rule 12 of Chapter II of the Bar Council of India Rules, framed by the Bar Council of India, an advocate is not expected to withdraw from engagements once accepted, without sufficient cause and unless reasonable and sufficient notice is given to the client, which reads as follows:

"12.An Advocate shall not ordinarily withdraw from engagements once accepted without sufficient cause and unless reasonable and sufficient notice is given to the client. Upon his withdrawal from a case, he shall refund such part of the fee as has not been earned."



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7. Further, there is no provision in the Civil Procedure Code to give a fresh notice to the party, which is already represented by an advocate or pleader, who on any particular day pleads no instruction, will cause not only delay the proceedings and also brand arrears of cases. This civil revision petition is filed in the year 2010 and is pending for more than a decade and also in the absence any such mandatory provision, therefore this Court is not inclined to issue fresh notice to the petitioners.

8. This Court perused the grounds raised in support of this civil revision petition and the earlier orders passed by this Court in this petition.

9. The deceased first petitioner claiming to be a Muthavalli filed a suit in O.S.No.4 of 2008 before the Wakf Tribunal cum the Principal Subordinate Judge, Tirunelveli, for permanent injunction and the trial Court dismissed the suit holding that the first petitioner/plaintiff has not produced any material or document to substantiate that he is the Muthavalli of the said Wakf property. Therefore, this Court does not find any merit in the grounds raised by the petitioners in this civil revision petition.



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10. Accordingly this civil revision petition is dismissed. No costs.

05.07.2022

dsk

To
The Principal Sub Judge,
Tiruneveli.



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B. PUGALENDHI, J.

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