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C.R.P.No.3162 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2023

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3162 of 2023

and

C.M.P.No.19553 of 2023

1.M.Gandhi Nathan

2.G.Aruna

... Petitioners

-Vs-

1.Syed Sadiq Mosque and Dargah
Rep.by its President and Muthavalli
Mr.Z.Jamaludeen, Kundrathur Main Road
Mangadu Village, Chennai 602 101.

2.The Sub-Registrar
Chennai South, Kundrathur Sub-Registrar Office
Sammandam Nagar, Main Road, Kundrathur
Chennai 600 069.

3.The Chief Executive Officer
Tamil Nadu Waqf Board
No.1, Jaffer Syrang Street
Vallal Seethakathi Nagar
Chennai 600 001.

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the docket order of dismissal dated 21.02.2023 made in I.A. No.769 of 2022 in O.S. No.24 of 2022 and



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order of dismissal dated 21.04.2023 made in the Review Application in I.A. No.230 of 2023 in I.A. No.769 of 2022 in O.S. No.24 of 2022 by the Hon'ble Tamil Nadu Waqf Tribunal, Chennai.

For Petitioners : Mr.E.Prabhu

For Respondents : Mr.A.K.T.Mohammed Kaliffathulla
for R1
Mr.V.Jeevagiridharan
Addl. Government Pleader for R2

Mr.S.Haja Mohideen Gisthi for R3

ORDER

Challenging the impugned order passed in I.A. No.769 of 2022 in O.S. No.24 of 2022 and order of dismissal dated 21.04.2023 made in the Review Application in I.A. No.230/2023 in I.A. No.769/2022 in O.S. No.24/2022 passed by the Tamil Nadu Waqf Tribunal, Chennai, the Revision Petitioners/defendants 1 and 2 preferred this Civil Revision Petition.

2. Before the Waqf Tribunal, the Revision Petitioners filed an application in I.A.No. 769 of 2022 praying to reject the plaint. That application was ordered by the Waqf Tribunal as follows :-

“Heard both sides. I.A.Nos. 533 and 534 of 2022 allowed today upon undertaking given by the defendants 1 and 2. The



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question as to whether the compromise decree in O.S.No.188 of 1988 on the file of District Munsif Court, Poonamallee will bind the suit property and the plaintiff can be decided only during trial and for the said purpose, the plaint cannot be rejected as prayed for. Hence, this I.A. is dismissed.”

Moreover, the issue has not been adjudicated by filing written statement denying all the facts and evidence. Since it is a cryptic order, the same was challenged by the Revision Petitioners/defendants 1 and 2 by filing this Civil Revision Petition.

3. The learned counsel for Revision Petitioners would also submit that before the Waqf Tribunal, an application in I.A.No.769 of 2022 was filed praying to reject the plaint by relying the terms of compromise decree in the suit in O.S.No. 188 of 1988. But, without considering his submissions, the Waqf Tribunal dismissed the application, as such is erroneous one and the same is liable to be set aside. Hence, they prayed to set aside the findings of Waqf Tribunal.

4. Records perused. On seeing the order passed by the Waqf Tribunal, no reason was assigned in respect of the compromise decree. However, the Waqf Tribunal made an observation, which needs detailed evidence, as such it is not permissible even under Order 7 Rule 11 of



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C.P.C. So, the Waqf Tribunal has to give findings whether the plaint can be rejected or not by adjudicating all the issues raised in that petition, but on seeing the order passed in the instant case, it is only a cryptic order without any reasons, it shows the non-application mind of Waqf Tribunal. Accordingly, this Civil Revision Petition is allowed and the findings rendered by the Waqf Tribunal in I.A.No.769 of 2022 in O.S.No.24 of 2022 and the order of dismissal dated 21.04.2023 made in Review Application in I.A.No.230 of 2023 is set aside and the said application is ordered to be reopened. The Waqf Tribunal is directed to give opportunity to both parties to putforth their contentions and on hearing both sides, the trial judge is directed to dispose the application within a period of eight weeks from the date of receipt of copy of this order. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Speaking Order : Yes/No
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To
The Tamil Nadu Waqf Tribunal, Chennai.



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T.V.THAMILSELVI, J.

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