



CRP. PD. No.3262 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 02.11. 2023

CORAM :

THE HONOURABLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition (PD) No. 3262 of 2022

and

C.M.P. No. 17304 of 2022

Mr. A. Mohammed Musthafa

.. Petitioner

Versus

1. Mangalam Sunnath Jamaath Masjid Waqf

Represented by its Muthawalli M.P.Kaja Mohideen,
Periya Pallivasal, Mangalam-641 663,
Tiruppur District.

2. The Chairman,

Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai-600 001.

3. The Chief Executive Officer,

Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai-600 001.

4. The Superintendent of Waqf,

Tamil Nadu Waqf Board-Coimbatore Circle,
Hyder Ali Tipu Sultan Dhakni Sunnath Jamath Mosque Building,
No.963, Mettupalayam Road, near Flower Market,
Coimbatore-641 002.

.. Respondents



CRP. PD. No.3262 of 2022

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Civil Revision Petition is filed under Article 227 of the Constitution of India against the Order dated 16.03.2022 in I.A.No.47 of 2022 in O.A.No.16 of 2022 passed by the learned Tamil Nadu Waqf Tribunal, Chennai.

For Petitioner : Mr. K. Ezhumalai
For 1st Respondent : No Appearance
For Respondents 2 to 4 : Mr. Haja Mohideen Gisthi

ORDER

Challenging the order dated 16.03.2022 passed in I.A.No.47 of 2022 in O.A. No. 16 of 2022 on the file of the Tamil Nadu Waqf Tribunal, Chennai, the present Civil Revision Petition is filed.

2. The revision petitioner is the fourth respondent in Original Application No.16 of 2022. The said O.A.No.16 of 2022 was filed by the first respondent herein praying to issue appropriate direction to the respondents 1 to 3/respondents 2 to 4 herein to cause appropriate enquiry and take necessary action to evict the fourth respondent/revision petitioner herein from the property owned by the Original Applicant, which according to the applicant is illegally being occupied by the fourth respondent/revision petitioner herein.

Pending the Original Application, the 1st respondent herein has filed

<https://www.mhc.tri904.in/judis> I.A.No. 47 of 2022 for grant of interim injunction and it was posted to



CRP. PD. No.3262 of 2022

11.03.2022. On that date, vakalat was filed for the fourth respondent/ revision petitioner herein. Thereafter, the case was adjourned to 16.03.2022 for filing counter of R1 to R4 and posted for enquiry as a last chance. On that date, the counsel for the original applicant/first respondent herein was present, but there was no representation for R1 to R4 in I.A. No. 47 of 2022. Therefore, the Tribunal, by the order dated 16.03.2022, called the respondents in I.A. No. 47 of 2022 absent and set them exparte. The Tribunal also *inter- alia* held that the Original Applicant has made out a *prima facie* case for grant of interim injunction and accordingly, granted an order of interim injunction in I.A.No. 47 of 2022 till the disposal of the Original Application. Challenging the said order dated 16.03.2022 of the Tribunal, the revision petitioner/fourth respondent has filed this Civil Revision Petition before this Court.

3. The learned counsel for the revision petitioner/fourth respondent has submitted that five days before passing the exparte order on 16.03.2022, on 11.03.2022, Vakalat was filed on behalf of the revision petitioner/fourth respondent. The revision petitioner is the contesting respondent in O.A. No. 16 of 2022 as well as I.A.No.47 of 2022. On 11.03.2022, while recording the filing of Vakalath on behalf of the revision petitioner/fourth respondent, the Tribunal posted the case for hearing on 16.03.2022. According to the learned



CRP. PD. No.3262 of 2022

counsel for the revision petitioner/fourth respondent, the Tribunal, without affording sufficient opportunity to the revision petitioner/fourth respondent has set him exparte and also granted exparte interim injunction till the disposal of the Original Application. The learned counsel therefore prayed for allowing this Civil Revision Petition.

4. The learned counsel for the first respondent submitted that the Tribunal, in exercise of its discretion has granted interim injunction until the disposal of the Original Application. Such an order was passed after affording sufficient opportunity to the revision petitioner/fourth respondent for filing counter. The learned counsel therefore prayed for dismissal of this Civil Revision Petition.

5. Heard the counsel for the revision petitioner/fourth respondent and the learned counsel for the first respondent/applicant and perused the materials on record.

6. On considering the order dated 16.03.2022 in I.A. No. 47 of 2022 in O.A. No. 16 of 2022, it is evident that it was a not a speaking order. Even though the Tribunal is empowered to grant an exparte interim order, in the



CRP. PD. No.3262 of 2022

present case, this Court is of the view that sufficient opportunity has not been granted to the contesting fourth respondent/revision petitioner herein to file counter in I.A. No. 47 of 2022. It is stated that by virtue of the interim order, the revision petitioner/4th respondent could not carry out any erection work in the petition mentioned B schedule property. In fact, on 11.03.2022, when I.A. No. 47 of 2022 was listed for hearing, Vakalath was filed on behalf of the revision petitioner/fourth respondent, but within five days thereafter, when the application was taken up for hearing, finding that there is no representation for the revision petitioner herein, had set the respondents in I.A. No. 47 of 2022 exparte and granted an interim injunction until the disposal of Original Application. In such view of the matter, this Court is of the view that the order passed by the Tribunal has to be set aside and an opportunity must be given to the revision petitioner/fourth respondent to contest I.A. No. 47 of 2022.

7. Accordingly, the Order dated 16.03.2022 in I.A. No. 47 of 2022 in O.A. No. 16 of 2022 passed by the learned Tamil Nadu Waqf Tribunal, Chennai is set aside. The Civil Revision Petition is disposed of. No costs. The revision petitioner/fourth respondent is directed to file his counter in I.A. No. 47 of 2022 within a period of two weeks from the date of receipt of a copy of this order and thereafter, the Tribunal shall proceed to dispose of I.A. No. 47



CRP. PD. No.3262 of 2022

of 2022 on merits and in accordance with law, within a period of two months

thereafter. Consequently, connected miscellaneous petition is closed.

02.11.2023

Index: Yes / No

Internet : Yes / No

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T.V. THAMILSELVI, J.,

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To

1. The Tamil Nadu Waqf Tribunal,
Chennai.

2. Mr. M.P. Kaja Mohideen,
Muthawalli,
Mangalam Sunnath Jamaath Masjid Waqf,
Periya Pallivasal, Mangalam-641 663,
Tiruppur District.

3. The Chairman,
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CRP. PD. No.3262 of 2022

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