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W.A.No.2947 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2023

CORAM :

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.2947 of 2019

S.M.M.Anwar Ali

..

Appellant

v.

1. Fathima Nachiyar  
Hereditary Muthavalli  
Shavilajat Fakir Dargah Wakf  
Pallipadi, Chidambaram  
Cuddalore District
2. Tamil Nadu Wakf Board  
represented by its Chief Executive Officer  
3, Vallal Seethakathi Nagar  
Chennai 600 001
3. The District Revenue Officer  
Chidambaram  
Cuddalore District
4. Mohammed Salim  
S/o Rohaya Bee



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5. Gunasekar  
S/o Sengeni

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 02.02.2017 made in W.P.No.2566 of 2017.

For Appellant :: Mr.A.Raja Mohamed

For Respondents :: Mr.P.Ayyaswamy for R1  
Mr.Haja Mohideen Gisthi for R2  
Mr.U.M.Ravichandran  
Special Government Pleader for R3

### JUDGMENT

(Judgment of the Court was made by D.KRISHNAKUMAR,J.)

On the ground that the first respondent/writ petitioner has obtained an order from the writ Court without arraying the appellant as a necessary party in the said proceedings, this intra-Court appeal has been filed.

2. The learned counsel appearing for the appellant submitted that the appellant is presently enjoying the property in Survey No.78/2 to an extent of 0.50 cents situated at Pallipadai village, Chidambaram Taluk on the strength of the title deed and ryotwari patta issued in his name and that his family members have been in possession of the said property continuously



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for more than 68 years without any encumbrance. The aforesaid enjoyment of the property by the appellant has neither been disclosed nor the appellant has been arrayed as a party in the writ petition filed by the first respondent/writ petitioner. Therefore, the learned counsel submitted that the appellant should be given an opportunity to put forth his case before the authorities.

3. We have heard the learned counsels appearing for the respondents and also perused the order passed by the writ Court.

4. Since we find that the dispute is regarding the enjoyment/ownership of the property in question and it is the claim of the appellant that the order has been obtained by the writ petitioner behind his back prejudicing his rights, we deem it appropriate to direct the first respondent to make a fresh representation to the third respondent enclosing the copies of the representations dated 26.02.2016 and 02.04.2016, within a period of three weeks from the date of receipt of a copy of this order. On receipt of such representation from the first respondent, the third respondent is further



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directed to serve notice to all the interested parties including the appellant and thereafter pass appropriate orders on its own merits and in accordance with law as expeditiously as possible, but not later than 12 weeks from the date of receipt of such representation from the first respondent.

5. With the above direction, the order passed by the writ Court stands modified and the writ appeal stands partly allowed. Consequently, C.M.P.No.19164 of 2019 is closed. There is no order as to costs.

(D.K.K.,J.) (P.B.B.,J.)  
26.07.2023

Index : yes/no  
Neutral citation : yes/no

ss

To

1. The Chief Executive Officer  
Tamil Nadu Wakf Board  
3, Vallal Seethakathi Nagar  
Chennai 600 001
2. The District Revenue Officer  
Chidambaram, Cuddalore District



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AND

P.B.BALAJI,J.

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