



CRP(MD).No.2329 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **21.07.2023**

CORAM:

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

CRP(NPD)(MD).No.2329 of 2012 and
MP(MD).Nos.1 of 2012 and 2013

K.M.Muhaideen

(name of the petitioner is substituted
vide Court order, dated 14.07.2023 made in
CMP(MD).No.8544 of 2023 in
CRP(MD).No.2329 of 2012)

.. Petitioner

Vs

M.Diwan Pakkir Mohideen

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the
Constitution of India to set aside the Judgment and Decree, dated
24.07.2012 passed in O.S.No.197 of 2006 on the file of the Wakf Tribunal
(Principal Sub court), Thirunelveli.

For Petitioner : Mr.D. Nallathambi

For Respondent : Mr. M.P. Senthil



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ORDER

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The present revision has been filed by the defendant in O.S.No.197 of 2006 on the file of the Wakf Tribunal (Principal Sub Court, Thirunelveli). The respondent herein as plaintiff had filed a suit in O.S.No.181 of 2003 on the file of the Principal District Munsif Court, Thirunelveli for the relief of permanent injunction restraining the defendant and other members of the defendant Pallivasal from interfering with the peaceful possession and enjoyment of the scheduled land and the school run by the plaintiff's Jamath.

2. The Trial Court after considering the submissions on either side dismissed the suit on 21.03.2005. The plaintiff had filed A.S.No.141 of 2005 before the II Additional Sub Court, Thirunelveli. The First Appellate Court had found that the issue relates to the Wakf Property and therefore, Wakf Tribunal alone has got jurisdiction to entertain such suit. After arriving at such a finding, the First Appellate Court remanded the matter to the trial Court for passing appropriate orders. The trial Court after remand, passed a detailed order returning the plaint under Order 7 Rule 10 CPC. Thereafter, the plaintiff has chosen to file plaint before the Wakf



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Tribunal (Principal Sub Court, Thirunelveli). The suit was re-numbered as O.S.No.197 of 2006.

3. After remand, the oral and documentary evidence were recorded afresh before the Wakf Tribunal. Thereafter, the Tribunal arrived at finding that the land and school belong to the plaintiff's Pallivasal and decreed the suit as prayed for. Challenging the said order, the present revision has been filed by the defendant / Pallivasal.

4. According to the learned counsel for the revision petitioner / defendant in the suit, the Wakf Tribunal granted decree for permanent injunction as against the members of the respondent Pallivasal except with regard to the fact that they can worship in the plaintiff's Dhurga.

5. The learned counsel appearing for the revision petitioner / defendant in the suit in O.S.No.197 of 2006 has contended that taking advantage of the decree passed by the Wakf Tribunal, the plaintiff's Pallivasal is refusing to admit the students belonging to the defendant Pallivasal. It is the only grievance that is ventilated by the petitioner



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counsel before this Court in the revision.

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6. The learned counsel appearing for the respondent / plaintiff, on instructions, submits that already the children belonging to the members of the revision petitioner / pallivasal have been admitted and they are studying in the school. They further undertake that they will not have any objection for admitting the children of the defendant Pallivasal in the plaintiff Pallivasal school. The said undertaking is recorded. Since the only grievance of the defendant is that the children has been satisfied no further orders are required in the present revision.

7. Recording the said undertaking, this Civil Revision Petition stands closed. No costs. Consequently, the connected Miscellaneous Petition is closed.

21.07.2023

Index: Yes/No
Internet : Yes/No
trp



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To

The Wakf Tribunal (Principal Sub court), Thirunelveli.



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R.VIJAYAKUMAR, J.

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