



CRP.(MD).No.1926 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE P.B.BALAJI

CRP.(MD).No.1926 of 2019
and
C.M.P.(MD).No.9817 of 2019

H.Syed Madani

...Petitioner

Vs.

1.E.Ravichandran

2.Sivakami Ammal

3.Vijayalakshmi

...Respondents

PRAYER: This Petition filed under Article 227 of the Constitution of India to allow the present Civil Revision Petition by setting aside the fair and decretal order dated 18.02.2019 on the file of the Court of Principal District Judge, Tiruchirappalli and thereby allow the Transfer Original Petition No.97 of 2017 on the file of the Court of Principal District Judge, Tiruchirappalli.

For Petitioner : Ms.J.Maria Roseline

For Respondents : Mr.M.Siddharthan



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ORDER

This Civil Revision Petition is filed against the order dated 18.02.2019 passed in Transfer Original Petition No.97 of 2017 on the file of the Principal District Court, Tiruchirappalli.

2. The plaintiff in O.S.No.1580 of 2006 filed an application seeking transfer of the said suit filed by him to be tried along with the proceedings pending before the Wakf Tribunal in W.O.P.No.7 of 2006 and W.O.P.No.8 of 2007 and the transfer was sought for on the ground that the property which is the subject matter of the suit and the proceedings before the Wakf Tribunal are one and the same and for avoiding multiplicity of proceedings and in the interest of all parties, it would be ideal to have both the matters decided together before the Wakf Tribunal. However, the learned trial Judge has dismissed the said Transfer Application holding that the property which is the subject matter of the suit and the property which is the subject matter of the W.O.P. Proceedings before the Wakf Tribunal are entirely different and therefore, rejected the request for transfer.



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3. Heard the learned counsel appearing for the revision petitioner and the learned counsel appearing for the respondents.

4. The learned counsel appearing for the revision petitioner would submit that though the plaint proceeds as if the suit property belongs to the plaintiff, it is conceded that the plaintiff is only representing the Wakf as “Muthavali” and that the suit has not been filed in an individual capacity. The learned counsel would invite my attention to the pleadings in the W.O.P. proceedings where there is a clear admission of this fact and therefore, she would submit that for the said inadvertent pleadings, the parties should not suffer and the suit may be transferred to be tried along with the W.O.P proceedings before the Wakf Tribunal.

5. Per contra, the learned counsel appearing on behalf of the respondent would submit that there is no infirmity in the order of the trial Court in rejecting the request for transfer and hence, he prayed for dismissal of the Civil Revision Petition.

6. I have gone through the entire records and on a reading of the plaint before the District Munsif Court, Trichirappalli, I do not find any



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indication that the suit peroperty belongs to the Wakf. However, the properties in question, namely, the property described in the suit as well as in the W.O.P proceedings are certainly one and the same. However, in view of the pleadings available as on date, there is no infirmity in the order of the trial Court dismissing the application seeking transfer. At the same time, in order to not prejudice the parties, I am giving liberty to the revision petitioner to seek amendment of the plaint and thereafter, refile an application for transfer of the suit to be tried along with the W.O.P. Proceedings.

7. This Civil Revision Petition is disposed of with the above observations. No costs. Consequently, the connected miscellaneous petition is closed.

31.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
tsg

To
1.The Principal District Judge, Tiruchirappalli.

2.The Record Keeper,
Madurai Bench of Madras High Court,
Madurai.



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P.B.BALAJI,J.

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