



C.R.P.No.1913 of 2016

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.No.1913 of 2016

1.Dasthagir

2.Suraiya Banu

..Petitioners

Vs.

1.Kalvikarasan

2.Subramani

3.Amanullah

4.Selvam

5.Vijiya

6.Kalyanasundaram

7.Kuppusamy

8.Balasubramanian

9.Tillaiyammal

10.Tamil Nadu Wakf Board,
by its Chief Executive Officer,
Jaffar Serong Street,
Vallal Seethakkathi Nagar,
Mannadi, Chennai – 1.

..Respondents



C.R.P.No.1913 of 2016

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order in I.A.No. of 2015 in I.A.No.53 of 2013 in O.S.No. of 2013 dated 27.11.2015 on the file of Principal Subordinate Judge, Cuddalore and thereby allow the revision.

For Petitioners : Mr.N.Suresh

For Respondents : Mr.M.Senthilvadivu for R2, 3, 5 to 9

Mr.S.Hajamohideen Gisthi for R10

R1 – Dismissed vide order of this Court
dated 02.08.2018

ORDER

The order under revision is one rejecting the petition filed under Order IX Rule 9 of the Code of Civil Procedure seeking restoration of IA.No.53 of 2013 which was dismissed for default on 22.09.2015.

2. IA.No.53 of 2013 is an application filed under Section 92 seeking leave to institute a suit in respect of the property which is claimed to be a Wakf property. In the proposed suit the prayer is for declaration that the property in question belongs to Wakf. The application for restoration was returned by the trial Court with the following endorsement:

“Other side notice to be given.”



C.R.P.No.1913 of 2016

WEB COPY

3. The learned counsel for the petitioner before the trial Court however without serving notice on the learned counsel who appeared for the respondent in I.A.No.53 of 2013 chose to pay batta. The learned trial Judge concluded that payment of batta is not in compliance with the earlier return and the learned counsel for the petitioner ought to have attempted service on the learned counsel who have appeared for the respondent in I.A.No.53 of 2013. He therefore rejected the petition.

4. I am unable to see any illegality or irregularity in the order of the learned Judge to enable interference in this revision. Hence, this revision is **dismissed**. It is open to the petitioners to initiate fresh proceedings in accordance with law. No costs.

24.01.2024

dsa
Index : No
Internet : Yes
Neutral Citation : No
Speaking order

To
The Principal Subordinate Judge,
Cuddalore.



WEB COPY



C.R.P.No.1913 of 2016

R.SUBRAMANIAN,J.

dsa

C.R.P.No.1913 of 2016

24.01.2024