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C.R.P.No.2622 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2622 of 2024

and

C.M.P.Nos.13786 & 13787 of 2024

1.S.Jayanthi

2.Sundaramurthy

... Petitioners

vs.

1.Mohammed Yusuf Sahib Waqf

Rep. by its Muthavalli M.Mohammed Sali,

Son of Mohammed Sheik Maroof,

No.108, Sonagar Street,

Old Town Cuddalore – 607 003.

Cuddalore District.

2.Tamil Nadu Waqf Board,

Rep. by its Chief Executive Officer,

No.1, Jaffar Syra Street, Mannadi,

Chennai – 600 001.

... Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to set aside the fair and decreetal order dated 23.04.2024 passed in I.A.No.573 of 2023 in O.A.No.77 of 2023 on the file of Tamilnadu Waqf Tribunal, Chennai by allowing the revision.



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For Petitioners : Mr.T.S.Baskaran

For Respondent-1 : Ms.Hema Sampath, Senior Counsel
for M/s.MD.Abdur Rahman Dadni

For Respondent-2 : Ms.Rajeswari Karthikeyan

ORDER

This revision has been filed by the petitioners, who are respondents 1 and 2 in O.A.No.77 of 2023, challenging the order dated 23.04.2024 passed in I.A.No.573 of 2023 in O.A.No.77 of 2023 on the file of Tamilnadu Waqf Tribunal, Chennai.

2.The contention of the learned counsel for petitioners is that 2 acres of agricultural land in S.No.188/2 in Agaram village, Bhuvanagiri Taluk belongs to the first respondent Waqf. The first respondent Waqf leased out the said land in favour of the first petitioner under a lease deed dated 06.07.2006. From then on, the petitioners carrying on agricultural activities in the said land. Prior to the present Muthavalli Mohammed Yusuf Sahib, one



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Haja Mohideen acted as Muthawalli. After the death of Haja Mohideen in November, 2022, the present Muthawalli Mohammed Yusuf Sahib intended to take away the land, which was leased to the petitioner, for which, the petitioner filed a civil suit in O.S.No.28 of 2023 before the learned District Munsif cum Judicial Magistrate, Parangipettai seeking bare injunction. The petitioners also filed I.A.No.43 of 2023 seeking interim injunction restraining the respondents from disturbing the peaceful possession of the petitioners. Thereafter, the first respondent filed an application in O.A.No.77 of 2023 before the Waqf Tribunal and also filed I.A.No.573 of 2023 and the impugned injunction order was passed.

3.During the enquiry, on the side of the petitioners Exs.P1 to P10 marked and on the side of the respondents Ex.R1 marked. The learned counsel for petitioners further submitted that except Exs.P5/Patta, P6 and P10/Adangal, the other documents are not disputed. Exs.P5, P6 and P10 are not complete on the other hand petitioners obtained Adangal and Patta for the



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said property from the Village Administrative Officer, in which, it is mentioned, petitioners are cultivating tenants. He further submitted that the Tribunal without going into these aspects, given a finding that the respondents are in possession of the property and passed the injunction order directing the petitioners not to interfere with the peaceful possession of the respondents, which is not proper. Hence, the above revision has been filed.

4.Ms.Hema Sampath, learned Senior Counsel for first respondent filed counter and submitted that the first respondent's uncle Haja Moideen, who had never been the muthavalli of the Waqf, had executed an unregistered lease deed for 2 acres of Waqf property on 06.07.2006 in favour of the first petitioner without prior permission from the Tamilnadu Waqf Board. The petitioners attempted to trespass into the Waqf property, for which, a police complaint was lodged by the first respondent and the same is pending. She further submitted that the first petitioner filed O.S.No.28 of 2023 before the District Munsif cum Judicial Magistrate, Parangipettai for bare injunction



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restraining the Waqf from interfering with their alleged possession. The first petitioner also filed I.A.No.43 of 2023 seeking interim injunction. The Civil Court has no jurisdiction to entertain the suit, in respect to Waqf property. The suit is pending. To protect the Waqf property from encroachers, the first respondent filed O.A.No.77 of 2023 before the Waqf Tribunal. Thereafter injunction was granted in I.A.No.573 of 2023. She further submitted that as per Section 56 of the Waqf Act, a lease created without the permission of the Board for more than 1 year upto 3 years shall be void. It is also mandated that any lease for more than 3 years is illegal and void. Hence, even at the threshold, the claim of the petitioners has to be discountenanced.

5.Further, the learned Senior Counsel strongly objected for producing the additional documents (Adangal) from the Village Administrative Officer, which were produced before this Court, for the reason these documents not produced before the Tribunal, hence, there was no opportunity to question the same, based on which, the petitioners cannot



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make claim that they are in enjoyment and possession of the property. Further submitted that petitioners do not dispute that the land belongs to the Waqf. In view of the same, Muthawalli has got all the right to secure the property and bring the property for the benefit of the Waqf.

6.The learned counsel appearing for the second respondent/Waqf Board submitted that based on the materials produced, the Waqf Board passed the impugned order. The contention of the petitioners can be considered while deciding O.A.No.77 of 2023.

7.Since there are rival contentions, this Court does not want to venture into contentions. Without advertng to the rival contentions, this Court directs the Tamilnadu Waqf Tribunal, Chennai to complete the proceedings in O.A.No.77 of 2023 giving opportunity to both parties to produce any documents in support of their contention and thereafter decide



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the matter. Till such time, status-quo of the property to be maintained.

8. With the above directions, the Civil Revision Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

23.07.2024

Index : Yes/No

Internet : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

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To

The Tamilnadu Waqf Tribunal,
Chennai.



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M.NIRMAL KUMAR, J.

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