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O.S.A. No.355 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.11.2025

CORAM

THE HONOURABLE MR. JUSTICE **S.M.SUBRAMANIAM**
AND
THE HONOURABLE MR. JUSTICE **MOHAMMED SHAFFIQ**

O.S.A. No.355 of 2025
and
C.M.P. No.28257 of 2025

1.A.Shabbir
2.S.Hamida
3.S.Hussain
4.S.Saifuddin

... Appellants

Vs.

1.Zamruth Begum
2.M.M.Ali Hussain Kirmani
3.M.Ali Abbas Kirmani @ Jawed Hussain
4.Md.Ali Kirmani @ Mohamed Ali
5.Masthan
6.Subaan
7.Mumtaz Begum
8.Fathima Begum
9.Khaleel
10.Athali
11.Hussaini Begum
12.KG.A.Kirmani @ Jani
13.Rubbab
14.Mohammed Hadi
15.Nazreen
16.Mumtaz Begum
17.Fazilath Begum
18.Mirza Ali Naquie Kirmani



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19. Tamil Nadu Waqf Board
rep. By its Secretary,
No.3, Santhome High Road,
Mylapore, Chennai – 600 004.

20. K. Raza Ali

21. Abdur Rahman

22. K. Palaniappan

23. Anshar Ali

24. The Sub Registrar,
First Line Beach,
Chennai – 600 001.

25. The Commissioner,
Corporation of Chennai,
Ripon Buildings,
Chennai – 600 003.

26. Tahsildhar,
Fort Tondiarpet Taluk,
Periamet, Chennai – 600 003.

... Respondents

Original Side Appeal filed under Order XXXVI Rule 1 of Original Side rules r/w Clause 15 of Letters Patent against the order dated 16.09.2025 passed in A.No.4539 of 2025 in C.S. No.820 of 2008.

For Appellants : Mr.K.S.V.Prasad

For Respondents : Ms.Aswini Devi K
Additional Government Pleader
for R24 to R26



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JUDGMENT

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(Judgment of the Court was delivered by S.M.SUBRAMANIAM, J.)

Original Side Appeal has been instituted to assail order dated 16.09.2025 passed in A.No.4539 of 2025 in C.S. No.820 of 2008.

2. Mr.K.S.V.Prasad, learned counsel appearing on behalf of the appellants argued entertainability of the present appeal and in what way appellants are aggrieved from and out of the order sought to be assailed.

3. Learned counsel for appellants would submit that appointment of Valuer *per se* by the trial Court is erroneous. However, in paragraph No.3 of the order impugned dated 16.09.2025, trial Court made a finding that earlier order dated 12.08.2025 says that the guideline value of the property is Rs.2,93,33,600/-. But Ex.R3 valuation report shows that the value has been fixed at Rs.2,93,99,026/-. The Commissioner has already been directed to obtain value from Valuer and he has engaged the Valuer but his report has not yet been received and filed before the Court. Since the Court thought fit that the report from the neutral Valuer is to be obtained, time was extended for a period of two weeks to file valuation report. The matter was directed to be listed after two weeks.



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4. Whether any of the rights vested on the appellants have been infringed or violated is the only point to be considered. That apart, for the purpose of entertaining the appeal, whether the impugned order can be construed as 'judgment' or 'order' under Clause 15 of Letters Patent.

5. Any decision which affects a valuable right is a judgment. In the case of **Shah Babulal Khimji vs. Jayaben D.Kania and Anr** reported in **AIR 1981 SC 1786**, Apex Court has held as under:

'..... It is for the appellate Bench to see whether the impugned order is a judgment because it decides matters of moment or affects valuable rights of the parties and works serious injustice to the party concerned.

The test is whether there has been determination of any right or liability or whether it affects the merits of the controversy in the suit itself or if the order affects vital and valuable rights of the parties.'

6. In the present case, trial Court extended time for submission of valuation report which would not cause any prejudice nor result in infringement of the rights of the appellants to establish or defend their case.

7. Thus the appellants have not established any semblance of legal rights for entertaining the Original Side Appeal. However, appellants are at



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liberty to raise all their objections before the trial Court in the manner known to law.

8. With the above observation, this Original Side Appeal is dismissed. Consequently connected miscellaneous petition is closed. There shall be no order as to costs.

[S.M.S., J.] [M.S.Q., J.]
13.11.2025

Index:Yes/No
Neutral Citation:Yes/No
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To

- 1.The Secretary,
Tamil Nadu Waqf Board,
No.3, Santhome High Road,
Mylapore, Chennai – 600 004.
- 2.The Sub Registrar,
First Line Beach, Chennai – 600 001.
- 3.The Commissioner,
Corporation of Chennai,
Ripon Buildings, Chennai – 600 003.
- 4.Tahsildhar,
Fort Tondiarpet Taluk,
Periamet, Chennai – 600 003.
5. The Sub Assistant Registrar,
Original Side, High Court, Madras.



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**S.M.SUBRAMANIAM, J.
AND
MOHAMMED SHAFFIQ, J.**

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