

C.R.P.(PD)(MD).No.2131 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.R.P.(PD)(MD)No.2131 of 2022

and

C.M.P.(MD)No.9847 of 2022

S.Abdhul Haalik

...Petitioner

Vs.

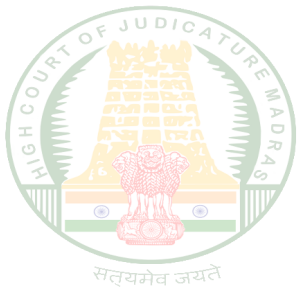
1.H.Mohamed Yagopu
2.M.Noorul Ameen
3.M.Hyther
4.A.K.Syed Ahamed Kabir
5.S.Awardeen

6.The Chairman,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seetakathi Nagar,
Chennai-600 001.

... Respondents

[6th respondent was suo motu impleaded vide order dated 12.04.2024]

PRAYER: Civil Revision Petition - filed under Article 227 of Constitution of India, to call for the entire records pertaining to the order passed by the District Munsif, Ramanathapuram in I.A.No.632 of 2021 in O.S.No.4 of 2021 vide order dated 18.08.2022 and set aside the same and consequently pass an order rejecting the plaint that has been filed by the fist respondent in the above said suit.



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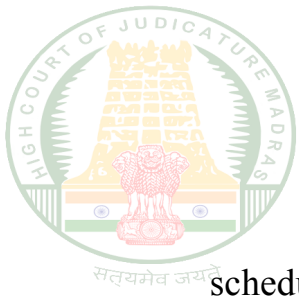
For Petitioner : Mr.N.Mohideen Basha
For R1 : Mr.A.Balaji
For R2 to R5 : No Appearance
For R6 : Mr.K.R.Kishore Ram
for R.P.Law Associates

ORDER

This Civil Revision Petition is filed challenging the order dated 18.08.2022 passed by the District Munsif, Ramanathapuram in I.A.No.632 of 2021 in O.S.No.4 of 2021.

2.The the first respondent herein is the plaintiff in a suit in O.S.No.4 of 2021 filed for bare injunction as against the petitioner and the other defendants. In that suit, the petitioner filed an interlocutory application in I.A.No.632 of 2021 under Order VII Rule 11 of CPC for striking off the plaint as the suit is barred by Section 85 of the Wakf Act. The said application was dismissed. Challenging the same, the present Civil Revision Petition is filed.

3.The learned counsel for the petitioner submits that though the suit schedule property belongs to one Mayakulam Jamiah Masjid, the said Masjid comes under the purview of Tamil Nadu Waqf Board. Therefore, the suit

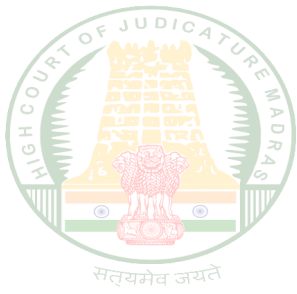


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schedule property is the waqf property and the Masjid has no right to deal with that property. Thereby, the lease deed as claimed by the respondent cannot be executed by the defendants/Members of the Masjid. More so, any dispute with regard to the wakf property to be dealt with only by the Wakf Tribunal. Section 85 of the Waqf Act mandates that no civil suit will lie relating to the wakf property and under Section 51 of the Act, without prior permission, the wakf property cannot be alienated. Therefore, the petitioner sought to strike off the suit. However, the trial Court without considering all these aspects, has dismissed the said application.

4.The learned counsel for the first respondent /plaintiff submitted that the administrative committee of the Mayakulam Jamiah Masjid has entered into a lease deed with respect to the subject property with the first respondent herein. However, contrary to the lease deed, the defendants decided to evict the plaintiff from the property. Thereby, the first respondent/plaintiff filed the suit for bare injunction as against the administrative Committee of the Masjid. The said suit is not barred by Section 85 of the Waqf Act. Therefore, the order of the trial Court need not be interfered.



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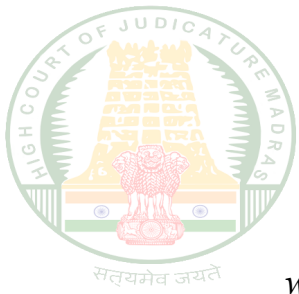
5.Considered the rival submissions made on either side and perused the materials placed on record.

6.The facts in the present case are not in dispute. The first respondent/plaintiff filed the suit for bare injunction as against the defendants on the basis of the sale deed executed by the administrative committee of Mayakulam Jamaiah Masjid. The grievance of the defendants is that the first respondent has to approach the Waqf Tribunal as per the provisions of Section 85 of the Waqf Act to decide the issue relating between them relating to the property of the Masjid. On this sole ground, the application for rejection of plaint is filed by the defendants.

7.For better appreciation, Section 85 of the Waqf Act is extracted below:

“85. Bar of jurisdiction of civil courts.—

No suit or other legal proceeding shall lie in any civil court, revenue court and any other authority in respect of any dispute, question or other matter relating to any waqf, waqf property or other matter



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which is required by or under this Act to be determined by a Tribunal.”

Perusal of the above provisions makes it clear that no civil court can handle disputes about waqf matters that must be determined by a Tribunal under the Act.

8.In the present case, the suit is filed by the lease holder from the defendants for unlawful eviction of the plaintiff from the let out property. The plaintiff is running a School from the year 2013 in the suit schedule property by entering into a lease deed with the Masjid. The plaintiff is not disputing the title of the property, whereas he seeks to protect the lease hold rights on the subject property. For such claim, the suit can be initiated before the civil Court. The trial Court has rightly appreciated the issue and dismissed the application filed by the petitioner.

9.Accordance, this Civil Revision Petition is dismissed with liberty to the petitioner to canvass all the grounds raised in this Civil Revision Petition before the trial Court at the time of trial. The trial Court shall decide the suit



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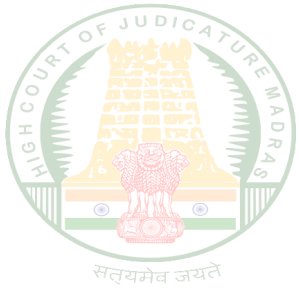
on merits and in accordance with law without being influenced by any of the observations made in this Civil Revision Petition including the issue of jurisdiction. No costs. Consequently, connected miscellaneous petition is closed.

06.08.2025

NCC : Yes/No
Internet : Yes / No
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To

- 1.The District Munsif, Ramanathapuram.
2. The Section Officer,
Vernacular Records,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI,J.

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