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SLP(Crl.)No. 3041 OF 2000

ITEM No.202

Court No. 4

SECTION IIA  
A/N MATTER

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No. 3041/2000

(From the judgement and order dated 13/06/2000 in CRLRC 1270/1998  
of The HIGH COURT OF MADRAS)

ALI HUSSAIN

Petitioner (s)

VERSUS

PARANGIPETTAI S.ALI MOSQUE @VATHIYAPALLI

Respondent (s)

( For Final Disposal )  
( With Office Report )

Date : 10/08/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.B. PATTANAIAK  
HON'BLE MRS. JUSTICE RUMA PAL

For Petitioner (s) Col.S.B. Kumar,Adv.  
Mr. J.M. Khanna,Adv.  
Ms. Shefali Khanna,Adv.

For Respondent (s) Mr. K.R. Choudhary,Sr.Adv.  
Mr. Krishnamurthi Swami,Adv.

UPON hearing counsel the Court made the following  
O R D E R

.....L.....I.....T.....T.....T.....T.....T.....J.  
.SP2

Leave granted.  
The appeal is disposed of.

.SP1

(Y.P.Dhamija) (D.D. Jindal) @@  
AA  
Court Master Asstt. Registrar@@

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Signed order is placed on the file.



of the Wakf Act, 1995. It may be stated that 1954 Act has been repealed and 1995 Act has come into force. The counter affidavit has been filed on behalf of the respondent committee of management indicating therein that the documents

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in question have already been handed over, and further a scheme has been framed under section 69, and even in the scheme of management the present appellant's name does not find place anywhere as being involved with the management of Wakf, and therefore there is no justification for this Court in interfering with the direction of the High Court.

Whether a scheme has been framed or not, and whether such scheme is in accordance with law or not, we are not expressing any opinion, and we are not examining the legality of that. Suffice it to say that the right of Muthavalli in the management of the Wakf can be nullified only when an order of removal is passed under the provisions of the Wakf Act, and in absence of such order of removal, it is difficult for us to conclude that the constitution of management by order dated 29.12.1997 itself would tantamount to an order of removal of Muthavalli. That being the position, and in the absence of any order of removal in accordance with law, the impugned direction of the High Court must be held to be not in accordance with law. We therefore hold that the High Court was not justified in issuing the aforesaid direction, though pursuant to the said direction the documents are said to have been already handed over to the committee of management. We therefore set aside the impugned direction of the High Court, and it is open for the parties to seek appropriate relief before the appropriate forum taking into

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account any subsequent development including challenging the so-called framing of a scheme.

The appeal is disposed of accordingly.

.SP1

.....J.  
(G.B. PATTANAIAK)

New Delhi,  
August 10, 2001

.....J.  
(RUMA PAL)