

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **26.10.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(P.D.) No.3336 of 2016 and
CMP.No.17067 of 2016

Jumma Masjid
Rep. by its Joint Muthavalli
Mr.K.M.Mohideen Kunhi
No.178, Kutcheri Road,
Mylapore, Chennai - 600 004.

...Petitioner

versus

1.S.Vasantha
2.The Tamilnadu Wakf Board
Rep. by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.

...Respondents

(cause title accepted vide order of court dated 19.10.2016
by KKSJ in CMP No.16468/2016 in CRP PD Sr.No.71613/2016)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the judgment and decree dated 23.08.2016 passed by the Hon'ble Wakf Tribunal, (I Assistant Judge, City Civil Court, Chennai) in I.A.No.10384 of 2015 in O.S.No.6719 of 2013.

For Petitioner : Ms.P.T.Asha for
Mr.T.Velumani

For Respondents : Mr.Parthasarathy, Senior Counsel
for Mr.S.Ramesh for R1

ORDER

The first respondent filed an application in I.A.No.10384 of 2015 in O.S.No.6719 of 2013 before the learned I Assistant Judge, City Civil Court, Chennai, praying for an order to amend the plaint. The application was opposed by the petitioner. The learned Trial Judge, by way of a very brief order allowed the application. Feeling aggrieved, the first respondent in I.A.No.10384 of 2015 is before this Court.

2. Heard the learned counsel for the petitioner and the learned Senior Counsel appearing on behalf of the first respondent.

3. The first respondent filed a suit in OS.No.6719 of 2013 for injunction. In the said suit, the first respondent filed an application for amendment in I.A.No.10384 of 2015. The first respondent wanted a decree of declaration that the order passed by the TamilNadu Wakf Board is null and void. The application was opposed by the petitioner on the ground that there was a statutory bar in seeking a decree of declaration as prayed for by the first respondent.

4. The learned Judge was expected to consider the merits of the application filed by the first respondent. The learned Judge adopted a shortcut method for disposal of an application for amendment.

According to the learned Judge, no prejudice would be caused to the parties, in case, amendment is allowed. I am not in a position to understand the logic by saying that amendment should be permitted in case, there is no prejudice to the other side.

5. While considering an application for amendment, the Court has to consider certain basic facts. Unfortunately, the order passed by the learned Judge does not contain any reason, much less, justifiable reason to allow the application for amendment. I am therefore of the view that the matter requires fresh consideration by the learned Trial Judge.

6. In the result, the order dated 23 August 2016 is set aside. The application in I.A.No.10384 of 2015 is restored to file.

7. The learned I Assistant Judge, City Civil Court, Chennai, is directed to consider the matter afresh and pass a speaking order on merits and as per law, as expeditiously as possible and in any case within a period of eight weeks from the date of receipt of a copy of this order.

K.K.SASIDHARAN, J.

(svki)

8. The Civil Revision Petition is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petition is closed.

26.10.2016

Index:Yes/No
svki

To

The Wakf Tribunal, I Assistant Judge, City Civil Court, Chennai

C.R.P.(P.D.) No.3336 of 2016

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