
(2015) 03 KAR CK 0454

In the Karnataka High Court

Case No : Regular First Appeal No. 153 of 2009

Deepak Shetty and Others

APPELLANT

Vs

Karnataka Wakf Board

RESPONDENT

Date of Decision : 30-03-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 3
Waqf Act, 1995 — Section 83, 83(9)

Citation : (2015) 2 AKR 833 : (2015) 3 KCCR 2848

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : V. Vishwanath, for the Appellant; S.R. Anuradha, Advocates for the Respondent

Judgement

Anand Byrareddy, J.

1. The learned counsel for the respondent Smt. S.R. Anuradha appearing for the Wakf Board would raise a preliminary objection as to the maintainability of this appeal. It is pointed out that the appellants were the defendants before the Tribunal and the respondent - Wakf Board was the plaintiff before the Tribunal. The Tribunal having adjudicated the matter and having held that the appellants had no right over the suit property and the suit for bare injunction having been decreed by the Tribunal, the present appeal is filed. The learned counsel Smt. S.R. Anuradha would point out that in terms of sub-section (9) of Section 83 of the Wakf Act, 1995, (hereinafter referred to as "the Wakf Act", for brevity) no appeal lies against any decision or order whether interim or otherwise, given or made by the Tribunal and it is also provided that the High Court may, on its own motion or on the application of the Board or any person aggrieved, call for and examine the records relating to any dispute, question or other matter which has been determined by the Tribunal for the purpose of satisfying itself as to the correctness, legality or propriety of such determination and may confirm, reverse or modify such determination or pass such other order as it may think fit.

Therefore, the present appeal in the form that it is presented, is not maintainable, as the judgment of the Tribunal would not fall under Order XLI, Rule 3 of the Code of Civil Procedure, 1908 for purposes of preferring this appeal and the appellant should invoke its revisional jurisdiction if at all.

Hence, the appellant is permitted to withdraw this appeal and present it as a civil revision petition. The appellant is therefore granted permission to convert the present appeal into a Civil Revision petition invoking the jurisdiction of this Court under Section 83(9) of the Wakf Act, 1995.