
(2002) 07 AP CK 0063
In the Andhra Pradesh High Court
Case No : CRP No. 423 of 2000

Syed Jamil Ahmed (Died) per LRs. APPELLANT
Vs
Meer Ahmed Ali Khan (died) per LRs. RESPONDENT

Date of Decision : 02-07-2002

Acts Referred:

Waqf Act, 1995 — Section 3

Citation : (2002) 6 ALD 318 : (2002) 5 ALT 174 : (2002) 4 RCR(Civil) 656

Hon'ble Judges : V. Eswaraiah, J

Bench : Single Bench

Advocate : Vedula Venkataramana, for the Appellant; Mohd. Azizullah Khan, for the Respondent

Final Decision : Allowed

Judgement

V. Eswaraiah, J.—The civil revision petition is filed against the order dated 2-12-1999 made in IA No. 757/1999 in OS No. 133/1998 on the file of the learned in Additional Chief Judge, City Civil Court, Hyderabad.

2. The petitioners herein are the defendants in the suit OS No. 3487 of 1992 on the file of the VI Asst. Judge, City Civil Court, Hyderabad. One late Meer Ahmed Ali Khan (father of respondents 1 and 2 herein), had filed the suit alleging that he is the Muthavalli of the suit property and sought for eviction of late Syed Jameel Ahmed (father of the petitioners herein). The trial Court dismissed the suit holding that there is no relationship of landlord and tenant. Against the said judgment and the decree, the respondents' father herein filed AS No. 133/1998 on the file of the m Additional Chief Judge, City Civil Court, Hyderabad. During the pendency of the appeal, the appellant died. The respondents herein filed IA No. 757/1999 seeking to come on record as legal representatives to prosecute the appeal. The petitioners herein have contested the said application on the ground that no legal representative can be permitted to succeed the so called Muthavalli. The Court below allowed the said application holding that any person interested in the Wakf property can also be brought on record including the

person who is in de facto management of the mosque as its Muthavalli. The respondents herein are the sons of the Muthavalli and the Wakf Board has appointed the father of the petitioners (sic. Respondents) as Muthavalli, and therefore, they are entitled to come on record as legal representatives.

3. If the Muthavalli is appointed by the Wakf Board, Muthavalli ship is not hereditary and the legal heir of the Muthavalli cannot be termed Muthavalli as the appointment comes to an end immediately after the death of the person who has been appointed as Muthavalli. Where the Board appoints the Muthavalli, it is not a hereditary. The Court below did not deal with the contentions of the respondents and the objections have not been considered regarding the contention that the muthavalliship appointed by the Wakf Board is not hereditary. The respondents sought to come on record as legal representatives of Muthavalli which cannot be permitted if the muthavalli is appointed by the Board. It is not the case of the respondents that they are the persons interested in the Wakf Board, and therefore, they have a right to come on record independently. The lower appellate Court, without considering all these questions, allowed the application only on the ground that the petitioners herein are the sons of the Muthavalli, and they are taking care of the suit property after the death of their father and they are interested in the property and they can be brought on record. The said order of the Court below is illegal as Muthavalliship appointed by the Wakf Board is not hereditary. Accordingly, the order under revision is set aside and the Court below is directed to reconsider the matter afresh in the light of the above observation in accordance with the law after giving reasonable opportunity to both the parties.

4. In the result, the revision petition is allowed. There shall be no order as to costs.