

SYED MOHIDEEN & ANR.

v.

RAMANATHAPURA PERIA MOGALLAM JAMATH & ORS.  
(Civil Appeal No. 492 of 2003)

JULY 21, 2010

**[MARKANDEY KATJU AND T.S. THAKUR, JJ.]**

*Wakf Act, 1995:*

*s.83(5) – Wakf Tribunal – Power of – HELD: Wakf Tribunal is deemed to be a civil court and has the same powers as are exercised by civil court under the Code of Civil Procedure while trying a suit or executing a decree or order – Civil courts are competent to issue injunctions in terms of Or. 39, rr. 1 and 2 and s.151 CPC – Similar orders can, therefore, be passed by the Wakf Tribunal also in suits that are legally triable by it – If the Wakf Tribunal, upon consideration of relevant facts and circumstances, comes to the conclusion that a case for grant of interim injunction has been made out, it shall be free to issue any such injunction – Code of Civil Procedure, 1908 – Or. 39, rr. 1 and 2 and s.151 – Injunctions.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 492 of 2003.

From the Judgment & Order dated 24.01.2002 of the High Court of Judicature at Madras in CRP No. 1430 of 2001.

K.V. Viswanathan, B. Ragunath (for Vijay Kumar) for the Appellants.

K. Ramamoorthy, Hari Shankar K., Vikas Singh Jangra for the Respondents.

The following order of the Court was delivered

**ORDER**

The application for substitution is allowed.

A        Heard learned counsel for the parties.

This appeal has been filed against the impugned order of the High Court of Judicature at Madras dated 24th January, 2002 passed in C.R.P. No.1430 of 2001.

B        The facts in detail have been set out in the impugned order and hence we are not repeating the same here.

Having gone through the impugned order, we noticed from paragraphs 20 & 21 of the impugned order that the High Court has only observed that certain points were not considered by the Wakf Tribunal which should have been taken into consideration. Hence, the High Court remanded the matter.

C        We agree with the aforesaid observations of the High Court and see no reason to interfere with the same. We, however, may make it clear that in terms of Section 83(5) of the Wakf Act, 1995 the Wakf Tribunal is deemed to be a civil court and has the same powers as are exercised by civil court under the Code of Civil Procedure, 1908 while trying a suit or executing a decree or order. The civil courts are in turn competent to issue injunctions in terms of Order XXXIX Rules 1 and 2 and Section 151 C.P.C. Similar orders can, therefore, be passed by the Wakf Tribunal also in suits that are legally triable by it if a case for grant of such injunction or direction is made out by the party concerned. These observations shall not, however, be understood to mean that we are expressing any opinion on whether a case for grant of an injunction had been made out in the matter at hand. All that we wish to clarify is that if the Wakf Tribunal upon consideration of all the relevant facts and circumstances comes to the conclusion that a case for grant of interim injunction has been made out it shall be free to issue any such injunction. With these observations the appeal is dismissed. The Tribunal shall take a view uninfluenced by any observations made in this order or the order impugned before us. No costs.

R.P.

Appeal dismissed.

H