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**IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR**

**BEFORE
HON'BLE SHRI JUSTICE AVANINDRA KUMAR SINGH
ON THE 16TH OF MAY, 2024**

CIVIL REVISION No. 373 of 2011

BETWEEN:-

SYED MOHAMMED SAJID, S/O LATE SYED HASHMAT ALI, AGED ABOUT 59 YEARS, R/O 15, CHOWKI, IMAMBADA, NOOR MAHAL RAOD, BHOPAL, (MADHYA PRADESH) (DECEASED) THROUGH L.RS. :-

- 1. ZAZMA BEGUM, W/O LATE SYED MOHD. SAJID,**
 - 2. S.M. RASHID, S/O LATE SYED MOHD. SAJID,**
 - 3. SYED MOHD. ARSHAD, S/O LATE SYED MOHD. SAJID,**
 - 4. SYED MOHD. AMJAD, S/O LATE SYED MOHD. SAJID,**
 - 5. MS. UZMA BEGUM, D/O LATE SYED MOHD. SAJID,**
- ALL ARE R/O 15-NOOR MAHAL, CHOUKI IMAMBADA ROAD, TEHSIL HUZUR, BHOPAL (M.P.) 462001.**

.....PETITIONERS

(BY SHRI HEMANT SHRIVASTAVA - SENIOR COUNSEL WITH SHRI D.K. MISHRA - ADVOCATE)

AND

- 1. M.P. STATE WAKF BOARD BHOPAL, THROUGH ITS CHIEF EXECUTIVE OFFICER, NEAR TAZUL MASJID ROYAL MARKET BHOPAL (MADHYA PRADESH)**
- 2. DARUL UL ULUM, BHOPAL, (REGISTR4ATION NO. 5 (8) SR/57, DATED 18.01.1957, REGISTERED WITH REGISTRAR OF FIRMS AND SOCIETIES, UNDER REGISTRATION ACT, 1860, HAVING ITS OFFICE AT CAMPUS TAZUL MASIID, THROUGH ITS DIRECTOR/CHAIRMAN, NEAR ROYAL MARKET, BHOPAL (MADHYA PRADESH)**
- 3. M.P. STATE WAKF TRIBUNAL, THROUGH ITS REGISTRAR, BHOPAL, MADHYA PRADESH)**

.....RESPONDENTS

***(MS. SANA KHAN - PROXY COUNSEL FOR RESPONDENT NOS.1 &3)
(BY SHRI DEEPAK RAGHUWANSHI - ADVOCATE WITH SHRI NAVNEET***

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Reserved on :-04.03.2024.

Order delivered on :- 16/05/2024.
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This civil revision having been heard and reserved for orders, coming on for pronouncement this day, JUSTICE AVANINDRA KUMAR SINGH passed the following :-

ORDER

This revision is filed being aggrieved with the order dated 20.6.2011, whereby the learned Presiding Officer of M.P. State Wakf Board, Bhopal after conclusion of the evidence of the parties, at the stage of final argument has deleted/cancelled all previous issues, so far have been made by his predecessor Presiding Officers and formed new issues.

2. Basically issue involved is very short. A Civil Suit No.37 of 2005 is pending in the Wakf Board named as Syed Mohammed Sajid Vs. M.P. Wakf Board, Bhopal since 2005. After WS of the parties were filed on 25.3.2006, certain issues were framed. Thereafter, additional issues were framed six times. In the end, by the impugned order, seven issues were framed on 20.6.2011. The case was listed for final argument after evidence on 20.6.2011. Learned Tribunal has stated that many times there has been amendment in the plaint and W.S. Therefore, many times additional issues have been framed and certain issues have been deleted, which are confusing and are not proper for deciding the case and learned tribunal cancelled/deleted all the previous issues as stated above. It is mentioned that if parties want to give additional evidence, they may do so. Meaning thereby in the considered view of this court that evidence was not cancelled/deleted as feared by learned counsel for the applicant at the time of oral argument. Infact there was no de novo trial order (new trial of the suit).

Only issues were recast under provision of Order 14 Rule 5 of CPC, which power lies with the learned Tribunal.

3. Learned counsel for the revisionist objected that at this stage issues should not have been recast as it would put parties to disadvantage, who have already led evidence on earlier occasion. Thereafter prayer for certain additional issues was also rejected on 25.8.2011.

4. Learned counsel for the rival parties pray for appropriate order from this Court.

5. Under Order 14, Rule 5 of CPC power is always with the Court to amend issue at any stage but unless required for reasons to be recorded in writing, at the stage of final arguments after evidence of both parties was already recorded and case was for final arguments either learned Court could have taken the assistance of learned counsels for both the parties so as to see what real issues are involved or the Court could have passed a speaking order because ultimately aim of both the learned counsel for rival parties is to pin point the exact issues on which the litigation was fought in the pending suit by way of assistance to court. Some objections may be of formal nature but that has to be decided by the Court concerned by way of speaking order.

6. Accordingly the order dated 20.6.2011 and 25.8.2011 are set aside on the ground that order dated 20.6.2011 was not a speaking one as required under the law on the principle of natural justice. It is to be noted that a situation should not come where both the parties are at a loss to understand as to what was the defect in earlier issues and this objection is correct on facts and principle. Even this revision court was unable to appreciate as to what was the defect in the earlier issues as clear reason was not given. Let it be remembered that reasoning is the soul of any order/judgment.

7. Learned Wakf Tribunal is requested to take assistance of all learned counsel for rival parties to arrive at a conclusion as to what real issues are involved in the case under revision and then pass a reasoned and speaking order to recast the issues as required. Since this case is pending for about nineteen years, it is expected that Wakf Tribunal shall dispose of the case with the cooperation of all the parties at an early date after following due process of law.

8. The revision is allowed to the extent indicated above.

9. Both the parties shall appear before the tribunal on **1st of July 2024**.

bks



(AVANINDRA KUMAR SINGH)
JUDGE