NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. (C) No. 6531 of 2010

Ku. Kamla Dosaj, Daughter of Shri D.R. Sosaj, aged about 88 years, resident of Akbar Khan Ki Chaal, Opp. Mission Hospital, Tahsil & District Bilaspur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Collector, Bilaspur, District Bilaspur (C.G.)
2. Sub-Divisional Magistrate, Bilaspur, District Bilaspur, Chhattisgarh
3. Chhattisgarh State Wakf Board, through the Chief Executive Officer Sector 3, C/12 Devendra Nagar, Raipur, Chhattisgarh
4. Tehsildar, Bilaspur, Office of Sub-Divisional Officer, Bilaspur, District Bilaspur (C.G.)

---- Respondents

For Petitioner : Shri Amrito Das, Advocate.
For Respondents No. 1, 2 & 4 : Shri Sangharsh Pandey, Govt. Adv.
For Respondent No. 3 : Shri Prateek Sharma, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

05/01/2018

(1) Learned counsel for the petitioner would submit that the Chhattisgarh State Waqf Board has passed an order on 14.12.2006 declaring the petitioner to be illegal possession holder of the subject premises and further held that proceeding 54 & 55 of the Waqf Act, 1995 (henceforth 'Act of 1995') shall be initiated against the petitioner but no proceeding under Section 54 of the Act of 1995 has been drawn and, therefore, Sub Divisional Magistrate, Bilaspur has no jurisdiction to evict the petitioner under Section 55 of the Act of 1995.

(2) Per contra, counsel for respondent No. 3 would support the

impugned order.

(3) I have heard learned counsel appearing for the parties and considered their rival submissions made hereinabove and gone through the record with utmost circumspection.

(4) Admittedly, the Chhattisgarh State Waqf Board has held that proceeding under Section 54 of the Act of 1995 shall be initiated against the petitioner but no proceeding under Section 54 of the Act of 1995 has been initiated and no order of eviction has been passed, which is executable under Section 55 of the Act of 1995 by Sub Divisional Magistrate, as such, the impugned order dated 15.09.2010 passed by the Sub Divisional Magistrate is without jurisdiction and without authority of law, therefore, the same is liable to be and is hereby set aside.

(5) Thus, the writ petition is allowed. However, the respondents are at liberty to proceed in accordance with law.

Sd/-

(Sanjay K. Agrawal)
Judge

D/-