

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2020

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.R.P (NPD) Nos.627 of 2010 and 2696 of 2012

Tamil Nadu Wakf Board
Old Door No.4, New Door No.7
9th Cross Street,
Indira Nagar
Chennai-20.

... Petitioner in
both CRPs.

Vs.

A.Abdul Rehman

...1st Respondent in
CRP.627 of 2010

M.Noor Mohammed

...1st Respondent in
CRP.2696 of 2012

Sunnath Jamath Masjeed

... 2nd Respondent in
both CRPs.

Prayer in CRP (NPD) No.627 of 2010:- This Civil revision has been filed under Article 227 of the Constitution of India as against the judgment and decree passed in O.S.No.239 of 2005 on the file of the Principal Sub Court, Coimbatore dated 12.01.2009.

Prayer in CRP (NPD) No.2696 of 2012:- This Civil revision has been filed under Article 227 of the Constitution of India as

against the judgment and decree passed in O.S.No.240 of 2005 on the file of the Principal Sub Court, Coimbatore dated 12.01.2009.

For petitioner : Mr. V.Lakshminarayanan
in both CRPs.

For Respondents : No Appearance

COMMON ORDER

These two Civil Revision Petitions have been filed challenging the judgment and decree passed in O.S.Nos.239 and 240 of 2005 by the Principal Sub Judge, Coimbatore dated 12.01.2009.

2. The Tamil Nadu Wakf Board is the Revision Petitioner herein. The above two suits in O.S.Nos.239 and 240 of 2005 have been filed by the respective plaintiffs, challenging the order passed by the Tamil Nadu Wakf Board, whereby the Wakf Board has held that the respective plaintiffs are only encroachers and they are not in continued possession of the wakf property. The said order passed by the Wakf Board was subject to challenge in the above suits in O.S.Nos.239 and 240 of 2005 respectively. Before the Wakf Tribunal, the Tamil Nadu Wakf Board has filed a written statement alleging that the subject matter of the suit

properties belonged to the Wakf and the same is notified in the G.O and pursuant to the said notification, they issued notice to the plaintiffs, who are the encroachers and asked them to vacate and deliver vacant possession of the suit property within a stipulated time and hence, enquiry was conducted. Since the respective plaintiffs have not appeared for the enquiry, orders have been passed which is the subject matter of the suit.

3. During the trial before the Wakf Tribunal, documents have been produced and the Wakf Tribunal has held that the enquiry file was not marked before the Court in connection with Ex.A1 and the Wakf Tribunal came to a conclusion that the service of notice is not satisfactorily explained by the Wakf Board and hence without hearing the affected party, the order cannot be passed and on that ground, the suit was decreed. Challenging the same, the present revisions are filed by the Wakf Board.

4. The respondents were served notice, but none appeared.

5. After perusing the judgment and decree of the Court below and after hearing the learned counsel appearing for the

Wakf Board, this Court is of the considered view that the provision of the Section 54 of the Tamil Nadu Wakf Act being a pre-condition for institution of the suit, the same was not gone into by the Tribunal. When that being the case, the maintainability of the suit before the Wakf Tribunal itself is under cloud since the parties are not before me, I deemed it fit to set aside the order passed by the Wakf Tribunal and remit the matter for fresh consideration by the Wakf Tribunal, after issuing notice to the respective parties. As per the written statement of the Tamil Nadu Wakf Board, the plaintiffs appear to be only encroachers and hence, the Wakf Tribunal shall first decide whether the suit is maintainable to proceed with the matter.

6. At this juncture, Mr.V.Lakshminarayanan, the learned counsel appearing for the petitioner in both the revisions, stated that after formation of the Tamil Nadu Wakf Tribunal at Chennai, original records from the Wakf Tribunal, (District Level) namely, the Principal Sub Court, Coimbatore may be transmitted to the aforesaid Wakf Tribunal.

7. In view of the aforesaid submission, Registry is directed to send a copy of this order to the Principal Sub Court, Coimbatore to transmit the records in O.S.No.239 and 240 of 2005 to the Tamil Nadu Wakf Tribunal, Chennai, so as to enable the Wakf Tribunal to dispose of the case within the stipulated time.

8. Accordingly, this Court is inclined to pass the following order.

i) The Principal Sub Court, Coimbatore is directed to transmit the records to the Tamil Nadu Wakf Tribunal, Tamil Nadu Slum Clearance Board Complex, II Floor, Kamarajar Salai, Chennai-600 004, within a period of three weeks from the date of receipt of a copy of this order.

ii) On such receipt of the records from the Principal Sub Court, Coimbatore, the Tamil Nadu Wakf Tribunal, Chennai, is directed to dispose of the suits in O.S.No.239 and 240 of 2005, after issuing notice to the respective parties within a period of 12 weeks.

iii) It is open to the Wakf Board to produce the necessary documents during the enquiry.

9. With the above direction, these Civil Revision Petitions are allowed. No costs.

13.02.2020

uma

Index : Yes/No

Internet : Yes/No

Speaking order/non speaking order

To

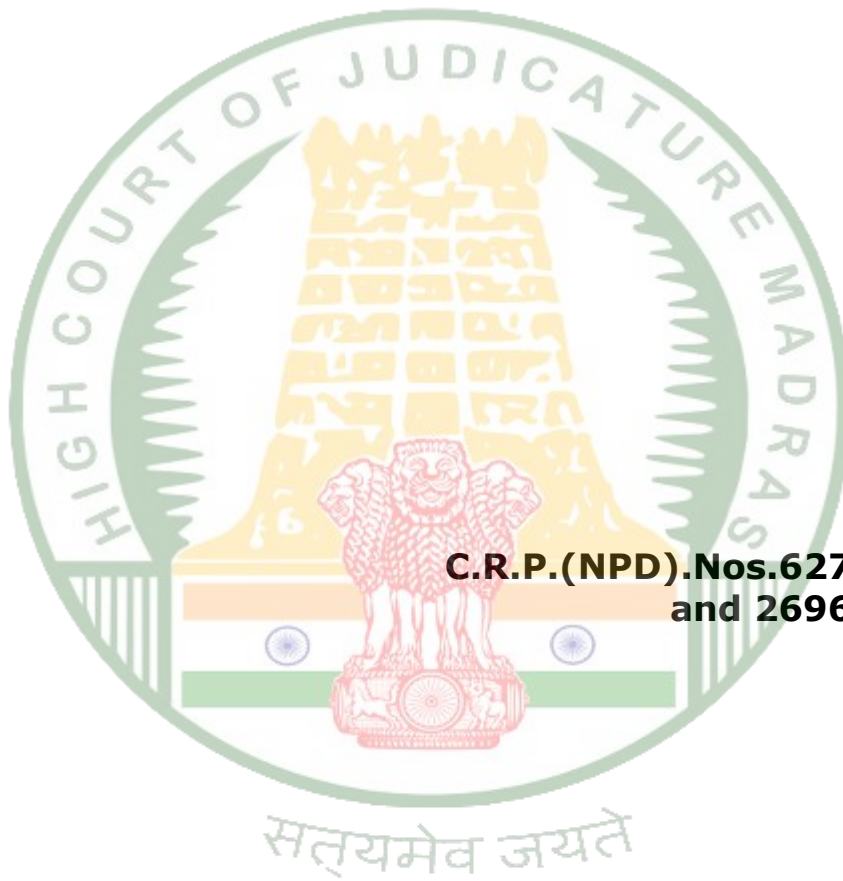
1. The Principal Sub Court, Coimbatore
2. The Tamil Nadu Wakf Tribunal,
Tamil Nadu Slum Clearance Board Complex,
II Floor, Kamarajar Salai,
Chennai-600 004.



WEB COPY

RMT.TEEKAA RAMAN J.,

uma



**C.R.P.(NPD).Nos.627 of 2010
and 2696 of 2012**

WEB COPY

13.02.2020