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C.M.P.No.18417 of 2023
in W.A (SR) No.94188 of 2023

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M.SUNDAR.J.,
and
N.SATHISH KUMAR, J.,

(Order of the Court was made by M.SUNDAR.J.,)

Captioned 'Civil Miscellaneous Petition' ['CMP' for the sake of brevity] has been filed with a prayer for grant of leave to the petitioner to present an appeal i.e., writ appeal (third party appeal) assailing 'order dated 27.06.2023 made in W.P.No.32163 of 2022 by a Hon'ble single Judge' (hereinafter 'impugned order' for the sake of brevity, convenience and clarity).

2. In the captioned CMP, Mr.K.R.Arun Shabari, learned counsel on record for the petitioner (to be noted, petitioner is a designated Senior Advocate) is before us. R1 is writ petitioner before Hon'ble single Judge. R2 to R6 are R1 to R5 respectively before Hon'ble single Judge and these official respondents are represented by Deputy Solicitor of India in this Court Mr.Rajesh Vivekanandan. As regards R1,



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Mr.S.Sivashanmugam, learned counsel is before us.

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3. Subject matter pertains to a writ of declaration declaring that the Tomb of David Yale and Joseph Hymners situate in the erstwhile Madras Law College campus is not an ancient monument and another limb of prayer seeks a direction to remove / relocate the same. This writ petition was allowed by Hon'ble single Judge after full contest vide the impugned order. The State is on appeal by way of W.A.No.2401 of 2023. Learned Solicitor is representing the State in this appeal.

4. As regards captioned CMP, the same has been tagged with W.P.No.13881 of 2024 which is a 'Public Interest Litigation' ['PIL' for the sake of brevity] filed by the same petitioner pertaining to two limbs. One, as regards engaging experts for conservation of architecture and for framing of comprehensive master plan for the future development of the precincts of Madras High Court and the second limb pertains to restraint order qua putting up any structure including the proposed 5 storey building in the erstwhile law college campus.



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5. The captioned writ appeal and the aforementioned writ petition have been tagged by way of an order made by Hon'ble Acting Chief Justice on the Administrative side (order dated 29.07.2024). Learned counsel for respondents in the captioned CMP very fairly submitted that the plea for leave is a matter between the Court and the petitioner and therefore, they really don't have a say

6. This Court finds that there is considerable overlap as between the aforementioned writ petition and writ appeal. The issues are inextricably intertwined and therefore, as a sequitur, we deem it appropriate to accede to the grant leave prayer. We make it clear that leave is granted for the petitioner owing to the tagging / overlap and therefore, this order will not serve as a precedent if any other person or entity seeks such leave i.e., the same will be tested on its own merits, if that be so.

7. Captioned CMP ordered as prayed for albeit with the aforementioned caveat.



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Registry shall process and assign a number to W.A (SR)
No.94188 of 2023, if otherwise in order and list it on Board in the next
sitting of this Special Bench.

[M.S.J.] [N.S.K.J.,]

01.08.2024

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