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C.R.P.(NPD)Nos.3336 and 3337 of 2024 and
C.M.P.Nos.17919 and 17920 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 18.09.2024

Coram :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.(NPD)Nos.3336 and 3337 of 2024 and
C.M.P.Nos.17919 and 17920 of 2024

S.Sheela ... Petitioner in CRP.No.3336/2024

A.Muthulakshmi ... Petitioner in CRP.No.3337/2024

Vs.

1. Haazrath Neelam Basa Dargha & Masjid Waqf,
Rep. by its Hereditary Muthawalli,
G.Gulab Ali Sha Kaderi,
Having Office at Haazrath Neelam Basa Dargha,
Dr.Besant Road, Triplicane, Chennai-05

2. The Estate Officer,
Under the TamilNadu Public Premises,
WAQF HOUSE, No.1,
Jaffer Syrang Street,
Vallal Seethalakshmi Nagar,
Chennai – 01.

... Respondents in both the CRPs

Civil Revision Petitions have been filed under Article 227 of the Constitution of India to call for the records relating to the order of eviction passed by the second respondent in his proceedings bearing Case



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Nos.PP.122/CHE/2022 and PP.121/CHE/2022 respectively and set aside the same.

For Petitioners : Mr.C.P.Sivamohan in both CRPs

For Respondents : M/s.A.K.T.Mohammed Kalifulla
for R1 in both CRPs

M/s.AvinashWadhwani for R2
in both CRPs

COMMON ORDER

These civil revision petitions have been filed seeking to call for the records relating to the orders of eviction passed by the second respondent in his proceedings bearing Case Nos.PP.122/CHE/2022 and PP.121/CHE/2022 respectively and set aside the same.

2 The petitioners are the respondents in the proceedings of the Estate Officer initiated under the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Act, 1975. The first respondent has filed petitions seeking for eviction of the petitioners herein contending that they are



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encroachers and the petitioners were directed to be evicted. Challenging the eviction order passed by the second respondent, the petitioners have filed present civil revision petitions.

3 Learned counsel for the petitioners would submit that the petitioners were directed to be evicted as per the provisions of the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Amendment Act 33 of 2010. The said Act was challenged before the Hon'ble First Bench of this Court as the same is void and *ultra vires* the Constitution. This Court by a common order dated 23.04.2024 has declared the said Act to be void qua the Waqf Act and hence *ultra vires* the Constitution. In view of the fact that the Act upon held as *ultra vires* the Constitution, the proceedings of the second respondent are also void and thereby the orders of eviction passed by the second respondent have to be set aside.

4 Per contra, learned counsel for the first respondent would submit that this Court, while disposing of the writ petition challenging the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants)



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Amendment Act 33 of 2010, has granted liberty to the respondent Waqf or otherwise Chief Executive Officer, to move an application before the Waqf Tribunal under the Waqf Act, 1995 (as amended) and the Tribunal was directed to consider the same in accordance with law. He would further submit that the petitioners are encroachers and the respondents may be granted liberty to proceed before the Waqf Tribunal.

5 Learned counsel for the second respondent would submit that while the Tamil Nadu Public Premises (Eviction of Unauthorised Occupants) Amendment Act was challenged before the Division Bench of this Court, even though the Act was declared as void and *ultra vires* the constitution, liberty was granted to the Waqf(s) and Chief Executive Officer to move an application before the Waqf Tribunal under the Waqf Act, 1995.

6 Heard the learned counsel appearing on either side and perused the materials.



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7 In view of the above, the impugned orders passed by the second respondent are set aside. However, it is made clear that the second respondent Waqf or Chief Executive Officer are entitled to move an application before the Waqf Tribunal and the respondents are at liberty to initiate appropriate proceedings before the Waqf Tribunal under the Waqf Act 1995.

8 With the above directions, the civil revision petitions are allowed. Consequently connected miscellaneous petitions are closed No cost.

18.09.2024

Index: Yes/No

Neutral Citation : Yes/No

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To

The Estate Officer,
Under the TamilNadu Public Premises,
WAQF HOUSE, No.1, Jaffer Syrang Street,
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