



C.R.P.(PD).Nos.1162 & 1163 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2025

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THE HONOURABLE MR. JUSTICE P.B.BALAJI

Civil Revision Petition (PD) Nos.1162 & 1163 of 2025

and

Civil Miscellaneous Petition Nos.6926 & 6927 of 2025

1.Mr.R.Periyasamy

2.Mr.R.Elumalai

... Petitioners in both CRPs

..Vs..

1.M/s.Nawab Khairunissa Begaum Sahiba Endowment,
And Hazrath Pappu Masthan Dargah Waqf,
Rep. by its Joint Secretary,
Having his office at No.31, Big Street,
Triplicane, Chennai-5.

2.The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffar Syrang Street,
Valla Seethakathai Nagar,
Chennai – 1.

... Respondents in both CRPs

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of the Constitution of India to set aside the common fair and decreetal order of the Tamil Nadu Waqf Tribunal at Chennai dated 17.02.2025 in I.A.No.680 of 2023 and I.A. No.681 of 2023 in O.S.No.5 of 2019 and consequently, dismiss the same.



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For Petitioners in both CRPs : Mr.V.V.Giridhar

For Respondents in both CRPs : Mr.L.Gavaskar for R1

Not ready in notice for R2

COMMON ORDER

These Civil Revision Petitions are directed against the orders of the Tamil Nadu Waqf Tribunal, Chennai allowing two applications at the instance of the plaintiff/Waqf, one for examination of Muthavalli for the purposes of receiving two additional documents namely, the Gazattee Notification dated 20.05.1959 and the Proforma Report of Nawab Khairunnissa Begum Sahiba. The said applications were resisted by the revision petitioners/defendants 1 and 2 in the said suit. However, the Tamil Nadu Waqf Tribunal has proceeded to allow the applications on payment of cost.

2. Aggrieved by the said order, the present Civil Revision Petitions have been filed.

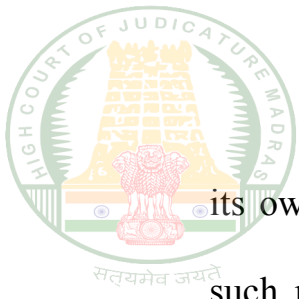
3. I heard Mr.V.V.Giridhar, learned counsel appearing for the petitioner and Mr.L.Gavaskar, learned counsel appearing for the first respondent/plaintiff.



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4. The suit is filed for recovery of possession from the revision petitioners/tenants. After completion of evidence, the Waqf Tribunal had reserved the matter for Judgment, at which stage, the present applications have been preferred seeking permission of the Tribunal to receive two additional documents. These are documents which are pertaining to the year 1959 and not the documents which are post institution of the suit. The Tribunal has exercised judicial discretion in allowing the applications on payment of cost. The Tribunal has also rendered a finding that the receipt of the said documents will not seriously prejudice the interest of the revision petitioners and it is not a case of filling up lacuna at the instance of the plaintiff.

5. In fact, the Judgment on which reliance has been placed on by the revision petitioner even before the Tribunal in the case of ***Bagai Construction through its Proprietor vs. Gupta Building Material Store (AIR 2013 SC 1849)***, the Hon'ble Supreme Court has held that "the power to recall the witness under Order 18 Rule 17 CPC can be exercised by the Court either on



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its own motion or on an application filed by the parties to the suit and that such power is to be invoked not to fill up lacunae in the evidence of the witness which has already been recorded but to clear any ambiguity that may have arisen during the course of examination”.

6. The Hon’ble Supreme Court following the ratio in ***K.K.Velusamy vs. N.Palanisamy reported in (2011) 11 SCC 275***, further held that “the power under either Section 151 CPC or Order 18 Rule 17 CPC is not intended to be used routinely, merely from the asking and that when such applications are found to be bona fide and that additional evidence, oral or documentary, will assist the Court to clarify the evidence on the issues and will assist in rendering justice, and the Court is satisfied that non-production earlier was for valid and sufficient reasons, the Court may exercise its discretion to recall the witnesses or permit fresh evidence.” The Hon’ble Supreme Court also further directed that the Court should award appropriate costs to the either party to compensate for the delay and ensure that the court should take up and complete the case within a fixed time schedule in order to avoid delay.



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7. In the present case, I find that the Waqf Tribunal has found that the documents would be necessary and despite being conscious of the fact that the Judgment had already been reserved in its judicial wisdom, the Tribunal has permitted the applications to be entertained on payment of costs. I am not able to countenance the arguments of the learned counsel for the petitioners that the order of the Waqf Tribunal suffers from perversity or legal infirmities. As held by the Hon'ble Supreme Court in **Bagai Construction** case cited supra, having noticed that the Waqf Tribunal has exercised its discretion in favour of the respondents/plaintiffs, I do not find any justifiable ground to interfere with the said order in revisions. However, as directed by the Hon'ble Supreme Court in **K.K.Velusamy's** case cited supra, the Waqf Tribunal shall endeavor to conclude the evidence and opportunity shall be given to the revision petitioners to cross examine the witnesses on the additional documents. The evidence shall be recorded/completed before the end of July 2025 and the suit shall be thereafter heard on merits and disposed of finally on or before 26.09.2025. It shall be open to the petitioners to lead contra evidence as well.



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8. These Civil Revision Petitions stands disposed of. No costs.

Consequently, the connected miscellaneous petitions are also stand closed.

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16.06.2025

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Index : Yes

Internet : Yes

Neutral Citation Case: Yes/No

To:

The Chairman/District Judge,
Tamil Nadu Waqf Tribunal,
Chennai.



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P.B.BALAJI, J.
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