
**H. Mohamed Ghouse Vs The Chief Executive Officer, Tamil Nadu Wakf
Board and Others**

Application Nos. 2259 and 2260 of 2015 in C.S. No. 317 of 1948

Court: Madras High Court

Date of Decision: July 27, 2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) - Section 92

Citation: (2015) 4 CTC 736

Hon'ble Judges: K. Ravichandra Babu, J

Bench: Single Bench

Advocate: R. Narendran, for the Appellant; Mohammed Fayaz, Advocates for the Respondent

Final Decision: Disposed off

Judgement

K. Ravichandra Babu, J

Application No. 2259 is filed seeking to appoint the Applicant as a Committee Member of the Gunangudi

Masthan Darga Charities as per Schedule 5 of C.S. No. 317 of 1948, as he is the descendant of the founder. Application No. 2260 of 2015 is

filed for issuing a direction to the First Respondent to call for Application from general public, who is Mohamedan of Sunni sect permanent resident

of Chennai for the appointment of other three Committee Members of Gunangudi Masthan Darga Charities as per Schedule 5 of C.S. No. 317 of

1948.

2. The Applicant in both the Applications is one and the same, who is the third party to the above said Suit. Since the facts are common in both

these Applications, they are extracted as hereunder:

The Applicant is the grandson of P.A. Ghulam Dasthagir Rowther, who was one among the Trustee of Gunangudi Masthan Dargah Charities. A

Scheme Suit in C.S. No. 317 of 1948 was filed before this Court. This Court passed a Scheme Decree in the said Suit. As per the Scheme

Decree, the Applicant's grandfather P.A. Ghulam Dasthagir Rowther, who was the First Plaintiff in the said suit was appointed as the First

Member of the Committee in accordance with Rule 5 of the Scheme Decree. The Darga Charities scheme was set out by the Scheme Decree

passed by this Court. As per the Scheme Decree, the Management of the Charity was vested with the Committee of five persons, who are

Mohamedans of Sunni sect residing permanently at Chennai. Rule 5 states that the two members of the Committee shall always be descendants of

the founder, whether in the male or female line. Every vacancy in the Committee shall be filled by co-option by the remaining member of the

Committee within three months of its occurrence. If the Committee fails to fill up the vacancies within three months, any member of the Committee

or worshipper or anyone interested in the charities may apply to this Court for appointment of a member in the vacancy. Now, the Darga Charities

are managed by the Second Respondent for more than a decade and no steps have been taken by the present Trustee to comply with the scheme

of this Court for appointment of other four Committee Members for the Charities. The Applicant's grand father died on 8.8.1969 leaving behind

P.A.G. Hassai Moulana and Kurushid Begam as his Legal Heirs. On the death of the Applicant's grandfather, P.A.G. Hassain Moulana was

appointed as the descendant of the founder. Subsequently on relieving the said P.A.G. Hassain Moulana from the charities, one Kairoonissa and

others were appointed as Trustees of the Gunangudi Masthan Darga Charities as per the Scheme Decree. Subsequent to the death of Kairoonissa

and other Trustees, the Second Respondent is the only person continuing the management of the Charities. Therefore, the Applicant made a

request to appoint him as the descendant of the founder as per Rule 8 of the Scheme Decree. The Respondents have to appoint three Committee

Members from general public by calling for Application as per the scheme schedule Rule 5 of the said Suit. Both the request of the Applicants

were not considered and therefore, the above Applications are filed before this Court.

3. The First Respondent filed a common Counter Affidavit wherein it is stated as follows:

Gunangudi Masthan Dargah Charities is a surveyed and notified Wakf coming under the superintendence of the Tamil Nadu Wakf Board. The

aforesaid Wakf is governed by a Scheme framed by this Court in C.S. No. 317 of 1948. The Scheme was framed by this Court before the advent

of the Wakf Act, 1954 and the subsequent new Act No. 43 of 1995. With the establishment of Wakf Boards under the Wakf Act, the powers of

the Scheme Courts governing the Wakf and its administration including appointment/removal of Muthavallis stood transferred to the Wakf Boards

along with the scheme. Section 32(2)(g) of the Wakf Act 1995 empowers the Wakf Board to appoint and remove the Muthavallis in accordance

with the provisions of the Wakf Act. Section 63 of the Wakf Act empowers the Wakf Board to appoint any person to act as a Muthavalli when

there is vacancy. Therefore, the Proper Authority for appointment or remove the Muthavalli is the Wakf Board. After the demise of three

Committee Members of the Wakf, it was managed by one Sabira Bi, the Third Respondent herein. Since there was an allegation of mismanagement against the Third Respondent, an enquiry was conducted and since there was no proper person appointed to the Committee

immediately, the Tamil Nadu Wakf Board took the direct management as per Section 65 of the Wakf Act 1995 under its Order dated 13.1.2014.

The Tamil Nadu Wakf Board initiated all steps to fill up the vacancies of Muthavalli of the Wakf. Suitable steps were initiated to appoint the

Committee Members expeditiously.

4. The Second Respondent filed a common Counter Affidavit wherein it is stated as follows:

The above Applications are not maintainable before this Court as the subject matter Wakf is under the direct management of the Wakf Board by

virtue of Section 65 of the said Act.

5. Learned Counsel appearing for the Applicant submitted as follows:

The subject matter Wakf is a private Wakf created by the great grandmother of the Applicant. Hence, this will not come under the purview of the

Wakf Board. The formation of the Wakf Board will not take away the rights under the Scheme Decree. As per Clause 5 of the Trust, the

Applicant must be appointed and as per Clause 8, Committee Members are to be appointed as stipulated therein. Wakf Board has no right over

the Muthavalli in respect of the Private Wakfs. As per the Scheme Decree, the Applicant is entitled to approach this court for seeking

appointment.

6. In support of the above contentions, the learned Counsel for the Applicant relied on the following decisions:

(i) The Executive Committee of the Masjid-E.Farkhunda and 2 Others Vs. P.A.G. Hussain Moulana, and 2 Others ;

(ii) Fuaad Musvee and Hajee Ebrahim Sait Wakf Vs. M. Shuaib Musvee, M. Najm Musvee, Md. Hussain Sait and Basheer Sait ;

(iii) Tamil Nadu wakf Board Vs. Larabsha Darga Panruti, (2008) 1 JT 123 : (2007) 13 SCC 416 : (2007) 1 SCR 518 ;

(iv) Syed Thajuddin Vs. Syed Mohideen and Others, (2011) 2 MLJ 105 ;

7. Per contra, the learned Counsel appearing for the First Respondent/Wakf Board submitted as follows:

The Scheme Decree was passed before the commencement of the Wakf Act. Section 32 of the Wakf Act deals with powers and functions of the

Wakf Board which empowers the Wakf Board to appoint Muthavallis. Explanation to Section 32 makes it clear that the power conferred under

Section 32 on the Wakf Board includes in respect of Wakf in relation to any Scheme made by any Court of law, whether before or after the

commencement of this Act. Wakf means private as well as public. Though the Scheme will prevail, the power of appointment as per the Scheme

vest on the Board in pursuant to the commencement of the Act and therefore, the Board will follow the scheme and appoint Muthavallis as per the

Scheme. Therefore, the proper course for the Applicant is to approach the Wakf Board and make the Application.

8. In support of his contentions, the learned Counsel for the First Respondent relied on the following decisions:

(i) Mohamed Mujeebur Rahman Vs. The State of Tamil Nadu and others, (2011) 6 CTC 397 ; and

(ii) Syed Thajuddin Vs. Syed Mohideen and Others, (2011) 2 MLJ 105 .

9. Learned Counsel appearing for the Second Respondent submitted as follows:

The Second Respondent is the Executive Officer of the Wakf. On 13.10.2014, the Wakf Board assumed direct management of the subject matter

Wakf and the same is also admitted by the Applicant in the present Applications. Though the assumption of the direct management was made for

one year, the same can be extended for subsequent periods. The prayer made in the Application No. 2260 of 2015 would show that the Applicant

is admitting the control of the Wakf Board over the subject matter Wakf. Therefore, the Applicant has to approach only the Wakf Board. In

support of his contention, he relied on the decision reported in Mahboob Basha v. Tamil Nadu Wakf Board, 2012 (6) MLJ 261.

10. Heard the learned Counsels appearing on either side and perused the materials placed before this Court.

11. The Applicant is seeking for an order from this Court appointing him as Committee Member of Gunangudi Masthan Darga Charities. He is

also seeking a direction to the First Respondent to call for Application from general public, who is Mohamedan of Sunni sect and permanent

resident of Chennai for the appointment of other three Committee Members of the said Charities. The Applicant is one and the same in both the

Applications and has filed these Applications based on a Scheme Decree passed in C.S. No. 317 of 1948 by this Court.

12. It is the case of the Applicant that as per the Scheme Decree, he being the male descendant of the founder Trustee, is entitled to be appointed

as Committee Member. Likewise, he is also seeking for appointment of the other three Committee Members among the general public who should

be Mohamedan of Sunni sect and permanent resident of Chennai. The Respondents herein are not disputing to the existence of the Scheme

Decree. On the other hand, their contention is that the Applicant has to approach only the Wakf Board seeking for such appointments as per the

Scheme Decree, as the Wakf Board is empowered to make such appointments as contemplated under Section 32(g) of the Wakf Act, 1995. It is

also their contention that even in respect of the Wakf covered under the Scheme Decree, the Board is empowered to deal with those Wakfs and

exercise its power contemplated under Section 32. On the other hand, it is the contention of the Applicant that the subject matter Wakf being a

Private Wakf, cannot be controlled by the Board and therefore, the Applicant is entitled to seek the relief from this Court based on the Scheme

Decree.

13. A perusal of Sections 32 & 3(r) of the Wakf Act, would show that the power conferred on the Board under Section 32 is not restricted only

on the Public Wakf. On the other hand, a conjoint reading of Section 3(r) and Section 32 of the Act would only show that the Wakf Board is

empowered to exercise its powers and functions in respect of the both Private and Public Wakfs. However, such exercise is to be done only in

accordance with the powers and procedures contemplated under the said Act. For better appreciation, Section 32(2)(g) of the Wakf Act, 1995 is

extracted hereunder:

32. Powers and functions of the Board.~ (1) Subject to any Rules that may be made under this Act, the general superintendence of all (auqafs)

in a State shall vest in the Board established or the State; and it shall be the duty of the Board so to exercise its powers under this Act as to ensure

that the (auqafs) under its superintendence are properly maintained, controlled and administered and the income thereof is duly applied to the

objects and for the purposes for which such (auqafs) were created or intended:

Provided that in exercising its powers under this Act in respect of any (Waqf), the Board shall act in conformity with the directions of the (Waqf),

the purposes of the (Waqf) and any usage or custom of the (Waqf) sanctioned by the school of Muslim law to which the (Waqf) belongs.

Explanation:~ For the removal of doubts, it is hereby declared that in this subsection, (Waqf) includes a (Waqf) in relation to which any scheme

has been made by any Court of law, whether before or after the commencement of this Act.

(2) Without prejudice to the generality of the foregoing power, the functions of the Board shall be-

..(c) to give directions for the administration of (auqafs);

(d) to settle schemes of management for a (Waqf):

Provided that no such settlement shall be made without giving the parties affected an opportunity being heard;

..(g) to appoint and remove Mutawallis in accordance with the provisions of this Act.

14. Perusal of the ""Explanation"" made under sub-clause (1) of Section 32 makes it clear that such power to be exercised by the Board under

Section 32 is also in respect of Wakfs in relation to which any scheme has been framed by any Court of law, whether before or after the

commencement of the said Act.

15. Section 3(r) of the Wakf Act, 1995 defines Wakf as follows:

""Waqf means the permanent dedication by any person, of any movable or immovable property for any purpose recognized by the Muslim law as

pious, religious or charitable and includes-

(i) a waqf by user but such waqf shall not cease to be a waqf by reason only of the user having ceased irrespective of the period of such cesser;

(ii) a Shamlat Patti, Shamlat Deh, Jumla Malkkan or by any other name entered in a revenue record;

(iii) ""grants"" including mashrat-ul-khidmat for any purpose recognised by the Muslim law as pious, religious or charitable; and

(iv) a waqf-alal-aulad to the extent to which the property is dedicated for any purpose recognized by Muslim law as pious, religious or charitable,

provided when the line of succession fails, the income of the waqf shall be spent for education, development, welfare and such other purposes as

recognized by Muslim law,

and ""Waqif" means any person making such dedication;

16. The scope of Section 32 and its applicability of all Wakfs have been considered by this Court in Mohamed Mujeebur Rahman Vs. The State

of Tamil Nadu and others, (2011) 6 CTC 397 , wherein at Paragraph Nos. 42, 43 & 44, it has been observed as follows:

42. The question to be considered on the facts of the present case is as to whether it is the Wakf Board which has to act under Act 43 of 1995 in

respect of the Wakf created by way of Will based on which a scheme has been framed by the Civil Court or the Civil Court for the simple reason

that since it has framed the scheme, it should only act as per the scheme in spite of Act 43 of 1995 having come into effect.

43. When that is the only dispute that is to be decided, by virtue of Explanation to Section 32(1) of Act 43 of 1995, it has been made abundantly

clear that the Wakf includes a Scheme made by the Court and that explanation itself is an answer making it clear that on a conjoint reading with

Section 85 of Act 43 of 1995 it is the Wakf Board which has to execute and act as per the terms of the Wakf, which has been created by way of

a Will based on which a scheme has been framed by the Scheme Court under Section 92 of the Code of Civil Procedure. Code of Civil

Procedure, being a general and procedural law based on which the Scheme Suit is filed on the basis of a Will executed by the Testatrix, is certainly

subject to the Special Law, viz., Act 43 of 1995, which is a Personal Law in respect of the administration of the Wakfs belonging to Mussalmans.

By virtue of the specific provision available under the Explanation to Sections 32(1) & 85 of Act 43 of 1995 creating a bar on the Civil Court,

there is absolutely no difficulty to come to a conclusion that it is the Wakf Board which has to enforce and act as per the scheme framed by the

Civil Court.

44. Inasmuch as it is clear that the decision arrived at by this Court in C.R.P.(NPD) No. 1629 of 2006, dated 16.2.2007 holding the legal position

that in respect of the matters relating to the Wakf, the Wakf Tribunal alone is the authority and not the Civil Court, has not been altered by the

subsequent decision of the Supreme Court in Ramesh Gobindram (dead) through Lrs. Vs. Sugra Humayun Mirza Wakf, AIR 2010 SC 2897 :

(2010) 9 JT 206 : (2010) 8 SCC 726 : (2010) 10 SCR 945 : (2010) AIRSCW 5185 , which is totally on a different ground relating to the right of

a tenant of a Wakf property regarding retention of possession, the reliance placed on by the learned Counsel for the Petitioner on the decision in

Nand Kishore Vs. State of Punjab, (1995) 71 FLR 938 : (1995) 7 JT 69 : (1995) 5 SCALE 582 : (1995) 6 SCC 614 : (1995) 4 SCR 16 Supp ,

relating to res judicata has no application. Since the legal position established by the learned Judge in the Revision has not been altered, certainly

the Principle of res judicata is applicable, inasmuch as the issue has been discussed by this Court in the Revision threadbare.

17. In Syed Thajuddin Vs. Syed Mohideen and Others, (2011) 2 MLJ 105 , a learned Single Judge of this Court while considering the scope of

Section 32(1)(g) of the Wakf Act, 1995, has observed at Paragraph Nos. 77, 78 & 96 as follows:

77. Also, Section 32(1)(g) refers to the power of the Wakf Board to appoint and remove Mutawallis in accordance with the provisions of the

Wakf Act.

78. It is not in dispute that the general superintendence of all Wakfs in the State vests in the Wakf Board. It is the essential duty of the Wakf Board

to ensure that Wakf under its superintendence or properly administered, controlled, maintained and the income thereof is necessarily applied to him

for which such Wakf are established or created. Significantly, the Proviso mentions that the Board shall exercise its power in accordance with the

directions of the Wakif, the objects/purposes of the Wakf and any usage or custom of the Wakf sanctioned by the particular school of Muslim

Law.

.....

96. Therefore, it is quite clear that even though as per Section 32, Explanation of the Wakf Act, 1995 the Wakf Board has got the power to

appoint a Mutawalli, yet, it is appropriate for the Wakf Board to appoint a Mutawalli in accordance with the Scheme Decree framed by this Court

in O.S. No. 10 of 1909 dated 27.3.1923 and the Judgment in A.S. No. 186 of 1923 dated 7.5.1934 and the Second Respondent/Wakf Board

has to act according to the tenor and spirit of the Decree passed in O.S. No. 10 of 1909 dated 27.3.1923 and the Judgment passed in A.S. No.

186 of 1923 dated 7.5.1934 and nowhere the Wakf Act 1995 nullifies the earlier Scheme Decree passed by the competent Court in O.S. No. 10

of 1909 and the Judgment made in A.S. No. 186 of 1923. Suffice it for this Court to point out that the Scheme Decree passed in O.S. No. 10 of

1909 dated 27.3.1923 and the Judgment in A.S. No. 186 of 1923 dated 7.5.1934 have not been abrogated or annulled so far in the manner

known to law and in the instant case on hand, the subject Wakf is covered by the Decree in O.S. No. 10 of 1909 dated 27.3.1923 and the

Judgment in A.S. No. 186 of 1923 dated 7.5.1934 and the Wakf Board is to implement the Scheme Decree passed in O.S. No. 10 of 1909

dated 27.3.1923 and the Judgment in A.S. No. 186 of 1923 dated 7.5.1934 in true letter and spirit and in the instant case, either the Second

Respondent or the Third Respondent has not approached the competent Court/Tribunal either for seeking clarification or modification of the

Scheme Decree passed in O.S. No. 10 of 1909 dated 27.3.1923 and the Judgment in A.S. No. 186 of 1923 dated 7.5.1934.

18. In another decision Mahboob Basha v. Tamil Nadu Wakf Board, the learned Single Judge of this Court while considering the scope of Section

32(1) of the Wakf Act, 1995 has observed at Paragraph Nos. 11, 12 & 16 as follows:

11. I would like to lay stress upon the Explanation appended to sub-section (1) of Section 32 of the Act, which unambiguously and unequivocally

highlight and shed light that Wakf Board has been conferred with enormous statutory powers to deal with even the Wakfs covered by Scheme

Decrees formulated by the Court.

12. A plain reading of the said provision will leave no doubt in the mind of the Court that such statutory body, irrespective of any Court decree or

order already governing such Wakf under any scheme, can exercise its power. While exercising its power, how the Board should conduct itself is

found exemplified in Section 32 of the Act itself and I need not dilate or elaborate on that because as of now, this Court is not enjoined to deal

with those aspects in extenso.

16. The cumulative reading of those maxims and the above general interpretation of statutes would amply and unequivocally, pellucidly and

palpably highlight the point that once the statutory authority, namely Wakf Board, has been vested with the power to deal with the Wakfs of all

kinds, including the ones already covered by any Court Judgment or Scheme Decree, then such Statutory Authority, namely, the Wakf Board is

not enjoined to go before the Court and seek permission to take over the control from the Court to that of itself. But this basic principle has not

been considered by the Lower Court.

19. From the perusal of the above decisions, it is evident that even in respect of Private Wakfs, where a Scheme Decree is passed by the Court of

law, the Wakf Board is empowered to exercise its power under Section 32 which includes the power to appoint and remove Muthavallis. At the

same time, it is to be stated that while exercising such power, the Board has to apply the Scheme Decree passed in respect of a particular Wakf

and make suitable Orders in accordance with or in consonance with the Scheme Decree. In other words, the Board cannot deviate from the terms

of the Scheme Decree passed in respect of the particular Wakf.

20. In The Executive Committee of the Masjid-E.Farkhunda and 2 Others Vs. P.A.G. Hussain Moulana, and 2 Others , a Division Bench of this

Court has observed that the Wakf Board will not supersede or affect the operation of a Scheme Decree passed by the Civil Court.

21. Learned Counsel appearing for the Applicant cited a decision reported in Fuaad Musvee and Hajee Ebrahim Sait Wakf Vs. M. Shuaib

Musvee, M. Najm Musvee, Md. Hussain Sait and Basheer Sait , to contend that there is a difference between Private and Public Wakf. There is

no quarrel about the said proposition. Perusal of the said decision would show that the scope of Section 32 of the Wakf Act was not the issue

before the Division Bench and what was considered therein is as to whether the Muthavalli appointed in pursuant to the order of this Court can

contend that this Court does not have jurisdiction to entertain the Suit therein for his removal. Therefore, the above decision being the one made on

different issue apart from being factually distinguishable one, cannot be applied to the facts and circumstances of the present case.

22. The other decision of the Hon^{ble} Apex Court relied on by the learned Counsel for the Applicant reported in Tamil Nadu wakf Board Vs.

Larabsha Darga Panruti, (2008) 1 JT 123 : (2007) 13 SCC 416 : (2007) 1 SCR 518 , A perusal of the said decision of the Apex Court shows

that the issue involved therein was as to whether the Suit property therein was Wakf property or private property of individual. Here again, the

scope of Section 32 was not the issue before the Apex Court in the said case and therefore, the said decision is also not helping the Applicant in

any manner.

23. A decision of the learned Single Judge of this Court reported in Syed Thajuddin Vs. Syed Mohideen and Others, (2011) 2 MLJ 105 , is relied

on by the learned Counsel for the Applicant to contend that the general superintendence powers under Section 32(g) cannot nullify the Scheme

Decree in Paragraph Nos. 96 & 97, which has been observed as follows:

96. Therefore, it is quite clear that even though as per Section 32, Explanation of the Wakf Act, 1995 the Wakf Board has got the power to

appoint a Mutawalli, yet, it is appropriate for the Wakf Board to appoint a Mutawalli in accordance with the Scheme Decree framed by this Court

in O.S. No. 10 of 1909 dated 27.3.1923 and the Judgment in A.S. No. 186 of 1923 dated 7.5.1934 and the Second Respondent/Wakf Board

has to act according to the tenor and spirit of the Decree passed in O.S. No. 10 of 1909 dated 27.3.1923 and the Judgment passed in A.S. No.

186 of 1923 dated 7.5.1934.

97....This Court also goes to an extent to pertinently point out that the general power of superintendence of the Wakfs by the Wakf Board or its

power to appoint Mutawalli as per Section 32(g) of the Act is not to be construed as to nullify or supersede the Scheme Decree passed in O.S.

No. 10 of 1909 dated 27.3.1923 by the Subordinate Judge, Mayavaram as well as the Judgment in A.S. No. 186 of 1923 dated 7.5.1934

passed by this Court.

24. I have already pointed out that though the Board is empowered under Section 32 to exercise the power even in respect of Wakfs covered

under the Scheme Decree, such exercise has to be done only in accordance with the terms of the Scheme Decree and not in deviation of the same.

Therefore, as per the above decision of this Court, the Wakf Board has to act only in accordance with the Scheme Decree, if any Application is

made for appointment of the Committee Member.

25. Further, it is to be noted that the subject matter Wakf was already taken over by the Wakf Board for a period of one year from the date of the

publication of the Notification in the Tamil Nadu Government Gazette and the gazette publication was also published in the Tamil Nadu

Government Gazette dated 19th March 2014. Therefore, it is seen that the subject matter Wakf was already taken control by the Tamil Nadu

Wakf Board.

26. No doubt as per the Notification, such taking over of administration was only for a period of one year. Now, it is contended by the learned

Counsel for the Respondents that they are contemplating for extension of the period of taking over by issuing further Notification. On the other

hand, it is contended by the learned Counsel for the Applicant that as on date, no taking over is in force and therefore, the present Application can

be considered. I am unable to appreciate the above said contention of the Applicant, in view of the specific provision contemplated under Section

32, more particularly, the Explanation to Section 32(1) of the Act, which has been referred to and discussed supra. As per the above said

Explanation, even assuming that the present Wakf is not taken over by the Wakf Board, still such Wakf covered by the Scheme Decree can be

controlled by the Board. Therefore, I am of the view that for exercising power under Section 32, taking over of the Management or control of the

subject matter Wakf is not essential. On merits, it is seen that it is not the case of the Respondents that the Applicant is not entitled to be

appointed. On the other hand, it is their case that he has to seek such appointment only by making Application before the Wakf Board. Therefore,

I am of the view that the Applicant has to only approach the Wakf Board seeking for the relief as sought for in these Applications so that the same

will be considered and decided on merits and in accordance with the Scheme Decree passed by this Court in C.S. No. 317 of 1948 without any

further delay. Accordingly, these Applications are disposed of by directing the applicant to present the Applications with similar prayer before the

First Respondent/Wakf Board within a period of two weeks from the date of receipt of a copy of this Order. On receipt of such Applications, the

First Respondent/Wakf Board shall dispose of the Applications and pass appropriate Orders on merits and in accordance with the Scheme

Decree passed in C.S. No. 317 of 1948 within a period of four weeks thereafter. With these directions and observations, both the Applications

are disposed of.