
(2019) 11 RAJ CK 0033

In the Rajasthan High Court

Case No : Special Appeal Writ No. 1587 Of 2019

Waqf Committee, Madarsa Mohammadiya Ahle Harid

APPELLANT

Vs

Govind Prasad

RESPONDENT

Date of Decision : 14-11-2019

Acts Referred:

Rajasthan Public Premises (Eviction Of Unauthorised Occupants) Act, 1971 — Section 2(b)(viii)

Wakf Act, 1954 — Section 26

Citation : (2019) 11 RAJ CK 0033

Hon'ble Judges : Indrajit Mahanty, CJ; Mahendar Kumar Goyal, J

Bench : Division Bench

Advocate : Rahul Kumar, Raj Kamal Gaur

Final Decision : Allowed

Judgement

The instant writ appeal has been preferred against the order dated 13.9.2019 passed in S.B. Civil Writ Petition No.12408/2019, whereby the writ petition has been dismissed observing that the learned counsel for the petitioner has failed to demonstrate as to whether the properties rented out by the Waqf Board would be governed for the purpose of eviction by the Rent Control Act or by the provisions under Rajasthan Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (for short-`the Act of 1971').

Learned counsel appearing for the appellant has drawn attention of this Court towards Section 2(b)(viii) of the Act of 1971, which is quoted as under:

"2. Definitions- In this Act, unless the context otherwise requires-

(b) "public premises" means any premises belonging to, or taken on lease or requisitioned by, or on behalf of the State Government, [and industrial area developed by the Rajasthan Industrial & Mineral Development Corporation and other immovable properties constructed in such areas] and includes any premise belonging to- (viii) a Wakf as defined in the Wakfs Act, 1954] (Central Act 29 of

1954) and entered in the register or Wakfs maintained under section 26 of that Act; or"

Learned counsel appearing for the respondent supported the judgement rendered by the learned Single Judge.

After hearing respective counsels, we are of the view that the instant special appeal deserves to be allowed in view of the definition of "premises" as provided under Section 2(b)(viii) of the Act of 1971 and also in absence of finding by the learned Single Judge that the premises belonging to Waqf Board would be governed by the Rent Control Act and not by the provisions under the Act of 1971.

Consequently, the appeal is allowed, the impugned order dated 13.9.2019 is set aside and the matter is remanded back to the learned Single Judge for decision afresh.

The learned counsel for the respondent undertakes to appear before the learned Single Judge in the writ petition. List the writ petition before the learned Single Judge after two weeks after showing name of Shri Raj Kamal Gaur as the counsel for the respondent in the cause list.