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W.P.No.13906 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 04.03.2026

CORAM

THE HON'BLE MR JUSTICE M.DHANDAPANI

W.P.No.13906 of 2024
and WMP.No.15092 of 2024

The President,
Ammerunnisa Begum Sahiba Endowment Committee,
No.76, Bharathidhasan Street,
Triplicane, Chennai-600 005. .. Petitioner

Vs.

1.The Tamil Nadu Wakf Board,
Rep by its Chief Executive Officer,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai-1.

2.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai-1.

3.The Superintendent of Wakf,
Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar,
Chennai-1.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus, forbearing the respondents from in any manner initiating proceedings for amending / modifying, appointing, removing the mutawallis governed by the scheme framed by this Court in CS.196/1913 dated 19.07.1915 in violation of Section 66 of the Wakf Act, 1995.



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For Petitioner

: Mr.Nizzar Ahamed, Senior Counsel
for Mr.N.A.Nassir Hussain

For Respondents

: Mr.Mohamed Fayaz Ali for R2

ORDER

This Writ Petition has been filed for a Mandamus forbearing the respondents from in any manner initiating proceedings for amending / modifying, appointing, removing the mutawallis governed by the scheme framed by this Court in CS.196/1913 dated 19.07.1915 in violation of Section 66 of the Waqf Act, 1995.

2. The learned Senior Counsel appearing for the petitioner would submit that one Ammerunnisa Begam Sahiba has created an endowment (Waqf) and has filed a Suit in CS.No.196/1913 and this Court has passed an order on 19.07.2015 and as per the scheme framed by this Court, it was ordered that the Muthawalliship of the mosque and management thereof and all properties belonging thereto shall vest in a Committee of 5 persons and they shall hold office for lifetime or till they are removed as per the Scheme or otherwise under due course of law. It is the further case of the petitioner that the Committee is discharging its duties and administering the Waqf as per the Scheme decree granted by this Court. While so, the first respondent has initiated proceedings



under Section 64 of the Waqf Act, 1995, vide proceedings in Na.Ka.No.10577/06/B9/CHE dated 05.09.2023. The Waqf Board does not have

jurisdiction to invoke Section 64 of the Waqf Act and the power does not vest with the Wakf Board, as the Committee has been constituted by a Scheme framed under this Court. Even as per Section 69 of the Waqf Act, the Waqf Board is not empowered to alter the scheme granted by this Court or by a Civil Court. Further Section 69 can be exercised only in terms of Section 32 of the Waqf Act i.e., 1995. Prior to that, any scheme decree granted by the Civil Court can become final and the Waqf Board cannot alter the scheme decree and the power for amendment, modification and alternation is vested only before the State Government under Section 66 of the Act. The learned Senior Counsel for the petitioner would further submit that in C.R.P.No.1654, 1655 and 1577 of 2020 etc., batch wherein this Court has considered the specific issue as to whether the Waqf Board has power to modify the scheme framed by the Court and in para 23, it was held that ***“when specific powers have been conferred under Section 66 of the Government to appoint or remove a muttawalli or settle or modify such a Scheme of Management or otherwise, particularly when the scheme settled by the Civil Court is in operation, merely because the waqf board has been given such a power to settle schemes of management for a wakf under Section 32(2)(d) of the Waqf Act, 1995, it cannot be said that such power can be exercised by the waqf board even in the case where there***



has already been a scheme framed by the Civil Court. In cases where there is already a scheme framed by a civil court, any modification to the Scheme, shall, in the considered opinion of the Court, be made only by the State Government in cases covered under Section 66 of the Waqf Act". In view of the categorical decision rendered by this Court, the Waqf Board has no power to alter or amend the scheme decree granted by the Civil Court and accordingly, prayed for appropriate orders.

3. *Per contra*, learned counsel appearing for the second respondent / Wakf Board would submit that i.e., after 1995, Wakf Board is fully empowered to alter / modify the Scheme decree granted by this Court earlier in terms of Section 69 of the Act, in terms of Section 32 of the Act. Similar issue was considered by a Division Bench of this Court in W.A.No.1339 of 2022 dated 13.04.2023 [*I.S. Ibrahim and another v. The Principal Secretary to Government and 8 others*].

4. Heard the submissions of the learned Senior Counsel for the petitioner and the learned counsel for the second respondent.

5. The facts are not in dispute. Admittedly, there was a scheme decree granted by this Court in favour of the petitioner endowment in CS.No.196/1913



dated 19.07.1915. The grievance of the petitioner is that the respondents have taken steps to modify the scheme decree and aggrieved by the same, the petitioner is before this Court.

6. The issues arises for consideration is governed by the provisions under Sections 32(2)(d), 66 and 69 of the Waqf Act, 1995. The relevant provisions reads as follows:

32.Powers and functions of the Board.-(1) Subject to any rules that may be made under this Act, the general superintendence of all wakfs 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 wakfs 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 wakfs were created or intended:

....

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

(a)..

...

(d)... to settle schemes of management for a waqf.

....

66. Powers of appointment and removal of mutawalli when to be exercised by the State Government.- Whenever a deed of waqf of any decree or order of a Court or any scheme of management of any waqf provides that a Court or any authority other than a Board may appoint or remove a *mutawalli* or settle or modify such scheme of management or otherwise exercise superintendence over the waqf, then notwithstanding anything contained in such deed of waqf, decree, order or scheme, such powers aforesaid shall be exercisable by the State Government;

Provided that where a Board has been established, the State Government shall consult the Board before exercising such powers.



69. Power of Board to frame scheme for administration of waqf.- (1) Where the Board is satisfied after an enquiry, whether on its own motion or on the application of not less than five persons interested in any waqf, to frame a scheme for the proper administration of the waqf, after giving reasonable opportunity and after consultation with the *mutawalli* or others in the prescribed manner].

(2) A scheme framed under sub-section (1) may be provide for the removal of the *mutawalli* of the waqf holding office as such immediately before the date on which the scheme comes into force.

Provided that where any such scheme provides for the removal of any hereditary *mutawalli*, the scheme shall also provide for the appointment of the person next in hereditary succession of the *mutawalli* so removed, as one of the members of the committee appointed for the proper administration of the waqf.

(3) Every order made under sub-section (2) shall be published in the prescribed manner, and, on such publication shall be final and binding on the *mutawalli* and all persons interested in the waqf.

Provided that any person aggrieved by an order made under this section may, within sixty days from the date of the order, prefer an appeal to the Tribunal and after hearing such appeal, the Tribunal may confirm, reverse or modify the order:

Provide further that the Tribunal shall have no power to stay the operation of the order made under this section.

(4) The Board may, at any time by an order, whether made before or after the scheme has come into force, cancel or modify the scheme.

(5) Pending the framing of the scheme for the proper administration of the waqf, the Board may appoint a suitable person to perform all or any of the functions of the *mutawalli* thereof and to exercise the powers, and perform the duties, of such *mutawalli*."

7. A perusal of Section 32(2)(d) makes it clear that the general superintendence of all wakfs in a State shall vest in the Board established or the State and the functions of the Boards shall be to settle the schemes of



management for a waqf. There is no quarrel in respect of the power available to the Waqf Board in terms of the above said provisions. However, if any scheme is created, in terms of Section 32, the said scheme shall be modified in terms of Section 69 of the Waqf Act, wherein Section 69(4) makes it clear that the Board may, at any time by an order, whether made before or after the scheme has come into force, cancel or modify the scheme. However, such a power is not available to the Waqf Board in respect of the scheme decree granted by this Court, including the City Civil Court or any Civil Court. Such power is vested only under Section 66 of the Act, which makes it clear that whenever a deed of waqf of any decree or order of a Court or any scheme of management of any waqf provides that a Court or any authority other than a Board may appoint or remove a *mutawalli* or settle or modify such scheme of management or otherwise exercise superintendence over the waqf, then notwithstanding anything contained in such deed of waqf, decree, order or scheme, such powers aforesaid shall be exercisable by the State Government. Hence, if any scheme decree is granted by the Civil Court prior to 1995, power is only vested to the State Government and not to the Waqf Board. The very issue was considered by this Court in the decision in ***Syed Maskoor Mohideen v. Tamil Nadu Wakf Board and ors [CRP.No.1654, 1655 and 1577 of 2020 dated 31.01.2025]***.



8. In view of the categorical authoritative pronouncement, the Waqf Board has no power to alter, amend or modify the scheme decree framed by the Civil Court. Hence, there shall be a direction to the respondents not to alter or amend the scheme decree.

9. Accordingly, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

04.03.2026

Jvm

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

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The Tamil Nadu Wakf Board,
No.1, Jaffar Syrang Street,
Vallal Seethakathi Nagar, Chennai-1.

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M.DHANDAPANI, J.

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