



W.P(MD)No.14099 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :17.06.2026

CORAM:

THE HON'BLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

**W.P(MD)No.14099 of 2025
and
W.M.P(MD)No.10220 of 2025**

M.Maideen Bathusha

... Petitioner(s)

- Vs. -

1.Tamil Nadu Wakf Board,
Rep. by its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai - 600 001.

2.The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

3.he Inspector of Police,
Erwadi Darga Police Station,
Keezhakkarai Taluk,
Ramanathapuram District.

4.South Street Kabarsthan Waqf ,
Rep. by its Mutawalli,
South Street, Erwadi,
Keezhakkarai Taluk,

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5. Al Aksa Jumma Pallivasal,
Rep. by its Secretary,
South Street, Erwadi,
Keezhakkarai Taluk,
Ramanathapuram District.

6. Jamia Masjid

7. Jamiaa Kuthba Pallivasal,
Rep. By its Mutawalli, North Street,
Erwadi, Keezhakkarai Taluk,
Ramanathapuram District.
(R6 and R7 are Suo Motu Impleaded vide
Court order dated 23.09.2025)

... Respondent(s)

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the 5th respondent to permit the petitioner and his family members to participate in the prayer, to register marriage, to pay subscription and to use the Kabarsthan to bury the dead, and pass such other or further orders as this Honble Court may deem fit and proper in the circumstances of this case and thus render justice.

For Petitioner	:Mr.IM.Saravanan
For R1	:Mr.K.Jeyamohan
For R2 & R3	:Mr.I.Murugesan, Govt. Advocate(Crl.side)
For R4 & R5	:Mr.N.Mohideen Basha



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ORDER

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This writ petition is filled for a mandamus directing the 5th respondent waqf to permit the petitioner and his family members to participate in the prayer, to register the marriage, to pay subscription and to use the Kabarsthan and to bury the dead.

2.The case of the petitioner is that the petitioner's father was originally residing for about 30 years along with his family members in the South Street. The 4th respondent is a Kabarsthan originally having a separate pro-forma administration, however subsequently nobody was in the administration and was an abandoned place. At that juncture, the residents of the South Street put up a Pallivassal and the 5th respondent waqf is also formed. From the said date onwards, the petitioner is seeking permission to become a member of the said jamath, but however the 5th respondent is not permitting



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the same.

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3.The petitioner's family has marriage to celebrate and they are entitled to take part in the prayers and in the case of an unfortunate incident, they have to use the 4th respondent Kabarsthan, the same is being consistently refused in respect of the petitioner. Therefore, the petitioner is before this Court.

4.The learned counsel appearing on behalf of the waqf board, would submit that the waqf board has already issued a general circular advising all the jamath not to excommunicate anybody. As far as this issue is concerned, there is a factual dispute between the individual and the waqf whether he comes within the jurisdiction to become a member or not.

5.The learned counsel appearing on behalf of the 5th respondent waqf would submit that the waqf does not have a drafted by-law, but however as per the pro-forma, which is formed in the year 2010, Column-VII describes that only the persons traditionally residing in South Street will be entitled to be the members of the jamath. The petitioner is not a traditional occupant of South Street. When the prayer was made, he was residing in West Street. There is yet



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another jamath which exercises jurisdiction over the said streets and the petitioner is also a member of the said pallivassal Viz., Al Masjidum Jamil, which is situated in North street, Erwadi. In view thereof, the petitioner cannot be permitted to become a member.

6.In reply to the submissions made already an additional affidavit is filed by the learned counsel for the petitioner where he has enlisted several persons who are not residing in the South street, are also members of the 5th respondent jamath. In reply thereof, the learned counsel for the 5th respondent would orally submit that it may be true that some of the members are residing outside the South Street, but they are all the traditional members of the families, who had their roots in the South Street and after getting employment etc they migrate to the other streets. Therefore, they are continuing to be the members of the jamath.

7.I have considered the rival submissions made on either side and perused the material records of the case.

8.As a matter of fact earlier on two occasions by interim orders dated 10.09.2025 and 17.09.2025, this Court impleaded the other jamaths and also



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required the petitioner to produce as the waqf board to clarify the position in order to resolve the issue as the petitioner prays only to become a member of jamath to offer prayers and to use the Kabarsthan etc., but however the same did not yield any useful result. Inasmuch as the waqf board would submit that this is a private dispute between jamath and the question is with reference to whether the petitioner is entitled to be a member of the jamath or not and the other jamaths which were subsequently impleaded did not choose to appear before this Court and answered the question one way or the other. Under these circumstances, this Court considered the merits of the submissions made on either side. It must be seen that the 5th respondent waqf said to have shaped up in 2010 and the pro-forma was drawn up for the first time in respect of the 5th respondent in the said year. Therefore, when that refers to the beneficiaries as traditional dwellers of South Street, it cannot be said that the person should be native of South street for generations together. The claim of the petitioner is that his father and his family were residing in the South Street for about 30 years can also be considered. But however, when serious factual disputes are raised on either side relating to whether the petitioner is entitled to become a member or not and with reference to the question of jurisdiction of the territory over which



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the benefits of the 5th respondent jamath is to be extended and whether the petitioner is a member of any other jamath already, these are disputed questions of fact. When such disputed questions of fact exist between the parties, the only course open is to relegate the petitioner under section 83 of the Waqf Act, to file appropriate application before the Tribunal, as any dispute relating to the waqf is determinable by the Tribunal. It will be open for both parties to let in such evidence for the Tribunal to come to an appropriate conclusion. The learned counsel would submit that in between emergency situations such as marriages in the family may arise. In any emergent situation, it will also be open for the petitioner to move such interim application before the Tribunal and the Tribunal shall consider the same and grant such emergent interim orders.

9. In view thereof, this writ petition disposed of on the following terms:

(i) The petitioner will be entitled to file application before the Tribunal under section 83 of the Waqf Act with reference to the prayer and as and when such application is filed, the tribunal shall take up the issue and deal with the same and decide the same as expeditiously as possible.

(ii) The petitioner will also be entitled to move such interim relief before



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the tribunal.

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(iii) No costs. Consequently, connected miscellaneous petition is closed.

17.06.2026

NCC: Yes/No

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To

1. The Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

2. The Inspector of Police,
Erwadi Darga Police Station,
Keezhakkarai Taluk,
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D.BHARATHA CHAKRAVARTHY, J.
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