

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S ORDERS
			<u>WPMS/2294/2026</u> Qamar Siddiqui and others --Petitioners Versus State of Uttarakhand and others --Respondents <u>Hon'ble Manoj Kumar Tiwari, J.</u> Dr. Kartikey Hari Gupta, Advocate with Mr. Rafat Munir Ali and Ms. Irum Zeba, Advocates for the petitioners. Mr. Yogesh Pandey, Deputy Advocate General for the State. Mr. T.A. Khan, Senior Advocate assisted by Ms. Sheeba Ahmed, Advocate for the respondent. 2. By means of this writ petition, petitioner has sought the following reliefs: “i. A Writ Order or Direction in the nature of Certiorari calling for records and quash the without jurisdiction Order dated 08.07.2026 by the Chief Executive Officer (C.E.O.), Uttarakhand Waqf Board/respondent no. 2 (Annexure No. 1 at Pg. No. 12). ii. A Writ Order or Direction in the nature of Mandamus directing the Chief Executive Officer (C.E.O.), Uttarakhand Waqf Board/respondent no. 2 to consider and decide the petitioners' objection dated 06.04.2026 and 16.05.2026 after giving an opportunity of hearing to the petitioners (Annexure No. 8 at Pg. No. 63-68) as per law within a period of four weeks.” 3. According to the petitioners, there is an immovable property in Ward No. 13, Old Tehsil Road, Khatima, District Udham Singh Nagar, which was given on lease to their grandfather and the property is in their possession and family of the petitioners is realising rent from persons who are occupying said property as tenants; in the year 2015, the said property was registered as ‘waqf property’ at the behest of sister of

		the petitioners; on 21.09.2025, one Mr. Naved Khan was appointed as 'Mutawalli' of the aforesaid property and petitioners questioned the appointment of Mutawalli qua the said property; Mr. Naved Khan, died in a road accident on 24.03.2026. 4. Petitioners have challenged order dated 08.07.2026, passed by Chief Executive Officer, Uttarakhand Waqf Board, whereby Sub Division Magistrate, Khatima was asked not to permit anyone to realise rent in respect of the aforesaid property, which is registered as Waqf No. 17-A in the Waqf Board, till further orders. Petitioners challenged that order by contending that since the property in question is not a waqf property, therefore, Waqf Board has no jurisdiction to pass such order. 5. Mr. T.A. Khan, learned Senior Counsel appearing for respondent No. 2; however, submits that in an application, made by petitioners to Uttarakhand Waqf Board, which was served in the office of the Board on 07.08.2019, petitioners stated that a waqf was created qua the property in question by their forefathers, namely, late Masooman and late Abdul Gani, son of Ali Mohd. in the year 1928, which was registered as Waqf Alal-Aulad in Sunni Centre Waqf Board, Lucknow, Uttar Pradesh. It is thus contended on behalf of respondent No. 2 that petitioners cannot resile from the admission made by them before the Waqf Board through their application that the property in question is a waqf property. Photocopy of said application which
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		was produced by Mr. T.A. Khan, learned Senior Counsel, in Court, is taken on record. Registry is directed to paginate the same. 6. Mr. T.A. Khan, learned Senior Counsel for the Waqf Board further submits that the question whether the property in question is waqf property or not, can only be decided by the Waqf Tribunal under Section 6 and 7 (1) of Waqf Act, 1995. Section 6 and 7(1) of the Act is reproduced below: “6. Disputes regarding (auqaf).—(1) If any question arises whether a particular property specified as [waqf] property in the list of [auqaf] is [waqf] property or not or whether a waqf specified in such list is a Shia waqf or Sunni (waqf), the Board or the mutawalli of the (waqf) or any person aggrieved may institute a suit in a Tribunal for the decision of the question and the decision of the Tribunal in respect of such matter shall be final: Provided that no such suit shall be entertained by the Tribunal after the expiry of one year from the date of the publication of the list of auqaf: [Provided further that no suit shall be instituted before the Tribunal in respect of such properties notified in a second or subsequent survey pursuant to the provisions contained in sub-section (6) of section 4. (2) Notwithstanding anything contained in sub-section (1), no proceeding under this Act in respect of any waqf shall be stayed by reason only of the pendency of any such suit or of any appeal or other proceeding arising out of such suit. (3) The Survey Commissioner shall not be made a party to any suit under sub-section (1) and no suit, prosecution or other legal proceeding shall lie against him in respect of anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder. (4) The list of auqaf shall, unless it is modified in pursuance of a decision of the Tribunal under sub-section
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		(1), be final and conclusive. (5) On and from the commencement of this Act in a State, no suit or other legal proceeding shall be instituted or commenced in a court in that State in relation to any question referred to in sub-section (1). 7. Power of Tribunal to determine disputes regarding auqaf.— (1) If, after the commencement of this Act, any question or dispute arises, whether a particular property specified as waqf property in a list of auqaf is waqf property or not, or whether a waqf specified in such list is a Shia waqf or a Sunni waqf, the Board or the mutawalli of the waqf, or any person aggrieved by the publication of the list of auqaf under section 5 therein, may apply to the Tribunal having jurisdiction in relation to such property, for the decision of the question and the decision of the Tribunal thereon shall be final: Provided that—(a)in the case of the list of auqaf relating to any part of the State and published after the commencement of this Act no such application shall be entertained after the expiry of one year from the date of publication of the list of auqaf; and (b)in the case of the list of auqaf relating to any part of the State and published at any time within a period of one year immediately preceding the commencement of this Act, such an application may be entertained by Tribunal within the period of one year from such commencement: Provided further that where any such question has been heard and finally decided by a civil court in a suit instituted before such commencement, the Tribunal shall not re-open such question.” 7. Learned counsel for the petitioners do not dispute the contention that Waqf Tribunal is the appropriate forum for deciding whether the property is a waqf property or not. 8. Since petitioners have questioned the order passed by respondent No. 2 on 08.07.2026 solely on the ground that the property in question is not a waqf property, therefore petitioner has to avail the appropriate remedy
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