

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.2432 of 2018

Between:

M/s. J.P. Estates,
Rep. by R. Jawahar,
S/o. P.S. Raja Pandian,
Aged about : 56 years, Occ : Business,
and others.

.....petitioners / petitioners

And

Mecca Madina Allauddin Waqf,
Rep., by its Managing Trustee,
Habib Allauddin, 72,
Allauddin Building, S.D. Road,
Secunderabad and others

.....respondents/respondents

Date of Judgment pronounced on : 23-09-2019

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

1. Whether Reporters of Local newspapers : Yes/No
May be allowed to see the judgments?
2. Whether the copies of judgment may be marked : **Yes**
to Law Reporters/Journals:
3. Whether The Lordship wishes to see the fair copy : Yes/No
Of the Judgment?

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Allaiddin Building, S.D. Road,
Secunderabad and others

.....respondents/respondents

< **GIST:**> **HEAD NOTE:**

!Counsel for the applicant : Sri Y Chandrasekhar

^Counsel for the 1st respondent : Sri M.V. Suresh Kumar, Senior Counsel
appearing on behalf of Sri P. Venkaiah
Naidu, counsel for 1st respondent.

^Counsel for R.2 to 8 : (Not necessary parties, according to
petitioners)

? Cases referred¹ 1986(2) SCC 486² AIR 1965 SC 1506 @ 1508³ (2003) 8 S.C.C. 752 (Para no.26)⁴ A.I.R. 1920 Madras 580⁵ A.I.R. 1917 P.C. 156⁶ A.I.R. 1969 Madras 426⁷ AIR 1948 PC 168⁸ (2014) 9 SCC 78

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

CIVIL REVISION PETITION No.2432 of 2018

ORDER:

This Revision is filed under Section 83(9) of the Wakf Act, 1995 challenging the order dt.22.01.2007 passed in O.S.No.24 of 1998 of the A.P. Wakf Tribunal, Hyderabad (**for short ‘the Wakf Tribunal’**).

2. Earlier this order has been challenged by the petitioners in W.P.No.7868 of 2007 and on 17.04.2007 in WP.MP.No.10110 of 2007 interim suspension of the order passed by the Wakf Tribunal had been granted.

3. Ultimately, the said Writ Petition was disposed of on 21.03.2018 permitting the petitioners to file Revision under Section 83(9) of the Wakf Act, 1995 excluding the limitation as they had pursued the remedy under Article 226 of the Constitution of India in this Court. This Court also granted interim suspension of the order passed on 22.01.2007 in OS.No.24 of 1998 for a period of six weeks from 21.03.2018 and permitted the filing of the Revision within four weeks from that date.

4. On 11.04.2018 the present Revision has been filed by the petitioners.

5. In this Revision also, on 17.04.2018, interim suspension was granted of the order passed by the Wakf Tribunal on 22.01.2007, and that was continued.

6. Ultimately arguments in the matter were heard on 20.08.2019 and 21.08.2019 and orders were reserved.

Brief facts of the Case:

7. The plaint schedule property is a C-type Quarter No.27 bearing Municipal No.7-2-1778 admeasuring 2262.44 sq.yds situated at Allauddin Industrial Estate, Sanathnagar, Hyderabad within specified boundaries.

O.S.No.449 of 1976

8. The 1st respondent/plaintiff herein claims to be a Wakf. It filed O.S.No.449 of 1976 before the III Additional Judge, City Civil Court, Secunderabad alleging that one Col. Waheed Khan was it's tenant, that the plaint schedule property belongs to it and forms part of a Wakf by name Mecca Madina Allauddin Wakf, which is said to be under the superintendence and control of A.P. Wakf Board. It was alleged that monthly rent was Rs.250/- and Col. Waheed Khan, the alleged tenant in the suit property, was a willful defaulter in payment of rents and was due a sum of Rs.1,000/- towards arrears of rent by 31.08.1973; that it had issued a legal notice dt.29.07.1973 to him terminating the tenancy and asked him to deliver vacant possession of the same by 31.08.1973, but he did not do so. It prayed that he should

be evicted from the plaint schedule property and a decree should be passed in favour of the petitioner for Rs.7,250/- comprising of rent from 01.05.1973 up to 31.08.1973 and also damages for use and occupation of the said property from 01.09.1973 to 30.09.1975 valued at Rs.6,250/-. Future *mesne* profits were also sought.

9. Written statement was filed by Col. Waheed Khan in O.S.No.449 of 1976, taking the plea that the 1st respondent/plaintiff was not the owner of the plaint schedule property nor was he its tenant. He stated that there is no question of willful default in payment of rents and he is not liable to pay any amounts to the 1st respondent. He asserted that he was the absolute owner of the plaint schedule property and had been enjoying uninterrupted possession of the plaint schedule property right from 1953 and also perfected his title by adverse possession. He also asserted that the plaint schedule property is not Wakf property. He denied that the A.P. Wakf Board can make a claim to the plaint schedule property as a Wakf property and contended that the Chairman of the A.P. Wakf Board had no authority to give permission to the petitioner for filing the suit against him. He also denied that the property was the property of Iqbal Allauddin or Dost Mohammed Noor Mohammed Allauddin, and that it was not declared and registered as Wakf property at all and cannot be said to be controlled and supervised by the A.P. Wakf Board.

10. Pending the suit, the sole defendant Col. Waheed Khan died on 28.10.1980.

11. On 21.01.1981, 1st respondent/plaintiff filed I.A.No.61 of 1981 to implead the legal representatives of the defendant.

12. On 04.12.1981, the said I.A. was dismissed for non-prosecution and consequently, O.S.No.449 of 1976 was also dismissed.

After 1981 till filing of the present suit O.S.No.24 of 1998.

13. Thereafter, the 1st respondent/plaintiff kept quiet till April, 1998.

14. In the meantime, in 1996, the plaint schedule property was sold by the legal heirs of Col. Waheed Khan to petitioners 2 to 6 under registered Sale Deeds bearing document No.s 2865/1996 dt.09.10.1996 (Ex.B1), No.2875/1996 dt.10.10.1996 (Ex.B2), No.2911/1996 dt.11.10.1996(Ex.B3), No.2869/1996 dt.10.10.1996 (Ex.B4), No.2894/1996 dt.11.10.1996 (Ex.B5), No.2922/1996 dt.11.10.1996 (Ex.B6).(equivalent to Ex.A9 to A14).

Plea of the 1st respondent in OS.No.24 of 1998

15. On 23.3.1998, the 1st respondent herein filed O.S.No.24 of 1998 before the AP Wakf Tribunal at Hyderabad against the legal heirs of Col.Waheed Khan (Defendants 1 to 6/respondenbts 2-8) and the 1st petitioner/7th defendant for the relief of perpetual injunction. In the plaint, the 1st respondent suppressed that it had earlier filed O.S.No.449 of 1976 against Col.Waheed Khan and the same was dismissed.

16. A new plea was raised in the plaint by the 1st respondent that it had purchased the plaint schedule property under Ex.A2 registered Sale Deed dt.30.03.1973 with its funds and reiterated that the plaint schedule property is Wakf property and that it is represented by its Mutawalli.

17. It again reiterated that Col.Waheed Khan was its tenant and that though he died, his legal representatives, who are Defendants 1 to 6/ respondents 2 to 8, colluded with the 1st petitioner/7th defendant and were trying to cause loss to the Wakf property and the 1st petitioner be directed to re-deliver the possession of the property to the 1st respondent. The 1st respondent also contended that the petitioners and other respondents have no right, title or interest in the plaint schedule property.

Written Statement filed by the 1st petitioner:

18. The 1st petitioner contended that the 1st respondent is in no way concerned with the plaint schedule property and it has no right or entitlement to claim the said property.

19. It is also contended that the Wakf Tribunal has no jurisdiction to entertain the suit as the plaint schedule property is not Wakf property.

20. It also contended that the suit O.S.No.24 of 1998 was hit by Section 11 of CPC and barred by the principle of *res judicata* since the earlier suit O.S.No.449 of 1976 filed by the 1st respondent against

Col.Waheed Khan before the III Additional Judge, City Civil court, Hyderabad was dismissed.

21. It is also contended that since 1953, Col.Waheed Khan and his family members were in continuous and uninterrupted adverse possession of the property and they thus became owners thereof.

22. It stated that the rights of Col.Waheed Khan in the property were inherited by his wife and children and they conveyed the plaint schedule property under the above referred six registered sale deeds in favour of Proprietor of the 1st petitioner and others, who were his relatives (petitioners 2 to 6) and the purchasers are enjoying the property as absolute owners.

23. It was stated that in the records of the Municipal Corporation, the plaint schedule property was shown to be owned by K.B.A.Allauddin and sons, and not the 1st respondent, and after purchase by petitioners 2 to 6, their names were mutated in the municipal records.

24. It was contended that the plaint schedule property was situated at Sanathnagar, Hyderabad and has no concern with Allauddin Industrial Estate.

25. According to 1st petitioner, the sale deed dt.30.03.1973 (Ex.A2) being relied on by the 1st respondent was illegal and void and did not bind the 1st petitioner.

26. It was pointed out that O.S.No.449 of 1976 had been filed by the 1st respondent in which Col.Waheed Khan not only denied the title of the 1st respondent, but also claimed title in himself and also denied that he was a tenant of the 1st respondent, and that the suit was dismissed on 04.12.1981 and no appeal was preferred against it. It was pointed out that from 04.12.1981, when O.S.No.449 of 1976 was dismissed, till the present suit was filed on 23.3.1998, no steps were taken by the 1st respondent against the legal heirs of Col.Waheed Khan and the present suit is thus barred by the principle of *res judicata*.

27. It was also stated that the 1st respondent did not file any Muntakhab in respect of the plaint schedule property from the Wakf Board, that it is not registered in the Wakf Board and there is no Gazette published showing it as a Wakf property. It was contended that the suit property was never a Wakf or was claimed to be a Wakf property and the plea of the 1st respondent was a false, concocted and manipulated one on the basis of a letter dt.24.09.1969 created by the 1st respondent in collusion with the Officials of the Wakf Board and also the photo copy of Extract of Book of Endowment dt.15.10.1981 (Ex.A1).

28. It is contended that the 1st petitioner alone is developing and carrying on construction activity in the plaint schedule property and the legal heirs of Col.Waheed Khan had no concern with it, and the 1st respondent was not entitled to question the activities of the 1st

petitioner. It is contended that the other petitioners 3 to 6 authorized the 2nd petitioner to carry on the activity of construction in the plaint schedule property through the 1st petitioner. It was lastly contended that the suit for bare injunction filed by the 1st respondent was not maintainable.

The amendment of the plaint/impleadment of the petitioners

29. Later the plaint was amended vide order dt.13.6.2000 in I.A.No.570/2000 contending that alienation by Respondents 2 to 8 in favor of the petitioners is illegal and is null and void. The prayer in the suit was also amended and the following reliefs in addition the relief of injunction were sought:

- “(a) to direct the petitioners and respondents 2 to 8 to re-deliver possession of the plaint schedule property to the plaintiff;
- (b) to declare the sale deeds referred to above executed by respondents 2 to 8 in favour of petitioners 2 to 6 to be null and void.”

30. Petitioners 2 to 6 were also impleaded as defendants 8 to 13 in I.A.No.563 of 2003 on 20.01.2004.

The plea of 1st petitioner in additional written statement

31. After such amendment, additional written statement was filed by the 1st petitioner denying that the alienation by respondents 2 to 8 in favour of petitioners 2 to 6 is without any title and that the said sales are liable to be declared as null and void. It was denied that 1st petitioner clandestinely obtained possession. It was also stated that

the relief of re-delivery of possession of the plaint schedule property to the 1st respondent cannot be granted. The other contentions taken in the initial written statement were reiterated.

32. Respondents 2 to 8 and 5th petitioner remained *ex-parte*.

33. Petitioners 3, 4 and 6 filed separate written statements supporting the written statement filed by the 1st petitioner.

34. Before the Wakf Tribunal, 1st respondent examined PW1 and marked Ex.s A1 to A14, and on behalf of the petitioners, DW1 was examined and Ex.s B1 to B14 were marked, and Exs.X1 to X3 were also marked.

The issues framed by the Wakf Tribunal :

35. The Wakf Tribunal framed the following issues:

- “1. *Whether the suit property is registered Wakf property or not?*
2. *Whether the plaintiff is proper person to manage the property(Wakf property)?*
3. *Whether this suit is hit by section 11 of CPC which is res judicata to earlier suit in O.S.449/97 on the file of Addl. Judge, City Civil Court, Hyderabad?*
4. *Whether the defendant No.7 is a bonafide purchaser from true owners?*
5. *Whether any cause of action arose on 20.03.1998?*
6. *Whether the plaintiff is entitled for perpetual injunction against the defendants?*
7. *To what relief?*

Additional Issue:

8. *Whether the plaintiff is entitled for recovery of possession of the suit property from 7th defendant?”*

The order dt. 22.1.2007 of the Wakf Tribunal

36. By order dt.22.01.2007, the Wakf Tribunal decreed the suit.

37. After referring to the contentions of the parties it held that as per Ex.A2 Sale Deed dt.30.03.1973 there was a recital that the plaint schedule property was in possession of a tenant, that the said recital and evidence of PW1 reveal that Col.Waheed Khan was the tenant, and his possession was permissive. It thus held that it is for the petitioners and other respondents who claimed title by way of adverse possession, to prove that Col.Waheed Khan and his successors in interest have become owners of the plaint schedule property due to lapse of time by virtue of adverse possession.

38. After referring to O.S.No.449 of 1976 and the dismissal of the said suit as well as I.A.No.61 of 1981 on 04.12.1981, the Wakf Tribunal observed that no evidence had been recorded in O.S.No.449 of 1976 and I.A.No.61 of 1981 to bring on record the legal representatives of Col.Waheed Khan was not pursued and it was dismissed consequently and the suit was dismissed as abated.

39. It observed that the petitioners did not choose to examine in O.S.No.24 of 1998 any legal heirs of Col.Waheed Khan to prove character of possession of Col.Waheed Khan over the plaint schedule property; that Exs.B1 to B6 Sale Deeds also did not mention how the transferors became the owners and possessors of the plaint schedule

property; and the defence taken by Col.Waheed Khan in the written statement filed in O.S.No.449/1976 did not confer title on him in respect of the plaint schedule property. It observed that the petitioners did not file a single document to prove possession of Col. Waheed Khan over the plaint schedule property between 1953 to 1973 and there is nothing to show that he obtained any decree of adverse possession during his life time and therefore his legal heirs cannot claim title to the land.

40. It then referred to the evidence of PW1 and contents of Ex.A2, and stated that PW1's grand father and two sons purchased the suit land and some other property in 1947 from the President of India, which was about 400 acres; that PW1 and his mother and his brothers inherited the same on the demise of their father; and thereafter they sold it to the plaintiff/1st respondent herein under the original of Ex.A2.

41. It also relied upon Ex.B14 dt.31.12.1997, proceedings of the Assistant Commissioner, MCH, and observed that Khan Bahadur Ahmed Allauddin and sons were the original owners of the suit schedule property, that thereafter their names were deleted and the names of petitioners 2 to 6 were incorporated in the Assessment Register.

42. It held that the petitioners 2 to 6 did not obtain any registered sale deeds from Khan Bahadur Ahmed Allauddin, that his sons are his

successors and mutation under Ex.B14 therefore does not help the petitioners.

43. It also referred to Ex.B11 to B13 filed by the petitioners and held that they only prove the possession of the petitioners, but they do not confer any title on them.

44. It further observed that the petitioners did not lead any evidence to rebut the case of the 1st petitioner that the 1st respondent-Wakf had purchased the suit property under the original of Ex.A2.

45. It also referred to Ex.A1 true copy of Munthakab issued by Wakf Board wherein the name of a wakif, Noor Mohammed Allauddin is shown and observed that there is nothing to say that the other claimants of Ex.A2 had disputed the endowment made by Noor Mohamed Allauddin in respect of the plaint schedule property.

46. It observed that according to PW1 there was a Gazette Notification declaring the plaint schedule property as a Wakf property and nobody objected to the enrollment of the property as a Wakf property.

47. It observed that the recital in Ex.A2 Sale Deed reveals that the plaint schedule property was purchased from the surplus funds of the 1st respondent Wakf and so the plaint schedule property did not have the character of the private property; that the petitioners did not file any suit to have the plaint schedule property deleted from the Books

of endowment; and even if the 1st respondent did not file the Gazette Notification, the property can be still treated as a Wakf property.

48. It also stated that during the pendency of the suit, a Notice under Section 90 of the Wakf Act, 1995 was served on the A.P. Wakf Board and it did not appear and deny the case of the 1st respondent. It therefore concluded that since PW1 deposed that the 1st respondent/plaintiff-Trust was constituted on 07.07.1948 and Noor Mohammed Allauddin was the Chairman of the 1st respondent/plaintiff, till he died on 19.04.1983, and thereafter PW1 was managing the plaint schedule property, he is the proper person to manage the plaint schedule property.

49. Though, there was no issue that the suit is barred by limitation, the Wakf Tribunal went into the said issue as if it was to be gone into under Issue No.3, which dealt with the question of *res judicata*. It observed that as per the Wakf Act, 1955, there was no period of limitation to file a suit for Declaration that property is Wakf property and for recovery of the same; and the instant suit having been filed after coming into force of the said Act, the plea of limitation cannot be entertained.

50. It observed that no suit in respect of the suit property had been filed before the commencement of Act and decided, and under the provisions of Wakf Act, 1954, no right or title was conferred on Col. Waheed Khan and others and consequently the principle of Tacking has no application.

51. It also observed that O.S.No.449 of 1976 was not decided on merits and the prayer in the suit O.S.No.24 of 1998 was different from the prayer in the suit O.S.No.449 of 1976 and so the suit O.S.No.24 of 1998 is not barred by *res judicata*.

52. It held that the evidence of PW1 and documents marked under Exs.A2 and A4 to A11 prove that Col. Waheed Khan was tenant over the plaint schedule property, that thereafter his legal heirs sold and delivered possession of plaint schedule property to the petitioners 2 to 6, and the 1st petitioner came into possession of the plaint schedule property to carry out construction activity; and so the 1st respondent is entitled to recover possession of the plaint schedule property from the petitioners as well as respondents 2 to 8.

The present Revision

53. Challenging the same, this Revision is filed.

54. Heard Sri Y.Chandra Shekar, counsel appearing for the petitioners and Sri M.V.Suresh Kumar, counsel representing the 1st respondent. Respondents 2 to 8 are not necessary parties to this Revision according to the petitioners. The contentions of the parties will be referred to at the time when the points, which arise for consideration, are decided.

The Points for consideration

55. In my opinion, the following points arise for consideration:

- a. *Whether the 1st respondent is a registered Wakf?*

- b. *Whether the plaint schedule property is Wakf property?*
- c. *Whether O.S.No.24 of 1998 is barred under Order XXII Rule 9 CPC on account of dismissal of O.S.No.449 of 1976 as abated ?*
- d. *Whether Col.Waheed Khan is a tenant of the 1st respondent?*
- e. *Whether Col.Waheed Khan and his legal heirs perfected title to the plaint schedule property by adverse possession?*
- f. *Whether failure of petitioners in the Revision to implead respondents 2 to 8 is fatal to the Revision?*
- g. *Whether the order passed by the Wakf Tribunal is liable to be interfered with or not?*

Point (a) :

56. I shall first consider whether the 1st respondent / plaintiff is a Wakf or not.

57. Nowhere in the plaint has 1st respondent stated when it was registered as a Wakf or when such Wakf was created or by whom.

58. PW1, during his evidence at one place stated that a Trust was constituted on 07.07.1948 with Noor Mohamed Alladin as the Chairman of the Trust till his death on 19.04.1983 and thereafter Iqbal Alladin became the Chairman of the Trust.

59. But he contradicted himself and stated that the 1st respondent is a Wakf and not a registered Trust. Again later, he stated that in Ex.A2,

the purchaser is Mecca Madina Alladin Wakf, *a duly registered Charitable Trust*, that in Ex.A2 it is mentioned at page 2 about a Trust Deed and Article 32 of the Deed is also mentioned, that it is available, but he did not file the Trust Deed into Court.

60. PW1 also stated that application for registration of the Wakf was made by Noor Mohamed Alladin as a Wakif, that he is not aware of the year in which he made the application and he did not have a copy of the application. These inconsistencies in the evidence of PW1 were ignored by the Wakf Tribunal totally.

61. Thus, even PW1 does not appear to be clear as to whether the 1st respondent is a Trust or a Wakf.

62. Prior to the coming into force the Wakf Act, 1995, the Wakf Act, 1954 was in vogue.

63. Chapter II thereof comprising of Sections 4 to 8 makes provisions for survey of Wakfs.

64. Section 4 provides for preliminary survey of wakfs. Sub-section (1) of Section 4 provided for appointment of a Commissioner of Wakfs and Additional or Assistant Commissioners of Wakfs for the purpose of making a survey of wakf properties existing in the State at the date of commencement of the Act. In sub-section (3) of Section 4, it was provided that the Commissioner shall, after making such inquiry as he may consider necessary, submit his report to the State Government containing the particulars mentioned in clauses (a) to (f)

which, inter alia, include particulars with regard to the gross income of the property comprised in each wakf. Sub-section (4) of Section 4 provided that the Commissioner shall, while making any inquiry, have the same powers as are vested in a Civil Court under the Code of Civil Procedure in respect of matters specified in clauses (a) to (f).

65. Section 5 provided for publication of list of wakfs. Under sub-section (1), the State Government was required to forward the report submitted by the Commissioner under sub-section (3) of Section 4 to the Board. Sub-section (2) of Section 5 provided that the Board shall examine the report forwarded to it under sub-section (1) and publish, in the Official Gazette, a list of wakfs existing in the State.

66. Section 6 deals with disputes regarding wakfs. In sub-section (1) of Section 6, it was provided that if any question arises whether a particular property is a wakf property or not or whether a wakf specified in such list is a Shia Wakf or Sunni Wakf, the Board or the Mutawalli of the wakf or any person interested therein may institute a suit in a civil court of competent jurisdiction for the decision of the question and the decision of the civil court in respect of such matter shall be final. In the proviso to sub-section (1), it was provided that no such suit shall be entertained by the civil court after the expiry of one year from the date of the publication of the list of wakfs under sub-section (2) of Section 5. Sub-section (4) of Section 6 provided that the list of wakfs published in sub-section (2) of Section 5 shall, unless it is

modified in pursuance of a decision of the civil court under sub-section (1), be final and conclusive.

67. If the 1st respondent had been a Wakf prior to 1954, then in the survey conducted after the Wakf Act, 1954 came into force, it would have been part of the survey of Wakfs conducted by the Commissioner of Wakfs under Section 4; and its name would have been included in the list of Wakfs published under Section 5 in the Official Gazette by the State Government on the basis of the report submitted by the Commissioner to the Wakf Board. Curiously, no such evidence has been produced by the 1st respondent.

68. Also PW1 admitted that no newspaper publication made by the Wakf Board is filed in this case and that he did not also file Gazette in respect of the plaint schedule property or the list of Wakf properties including the suit property. He also stated that he did not file any proof for payment of Wakf Fund in respect of the plaint schedule property to the Wakf Board.

69. These circumstances throw serious doubt about the registration of the 1st respondent as a Wakf or that it was recognized as a Wakf at any point of time.

70. No doubt Ex.A1, said to be Abstract of Book of Endowment issued by Secretary, A.P. Wakf Board, is filed by the 1st respondent.

71. This document merely states that the plaint schedule property is registered in the Book of Endowment as ordered in Proceeding F.No.14/21/2/1973 dt.15.10.1981 as per Wakf Act, 1954.

72. This document gives no details about when the 1st respondent-Wakf was brought into existence or was registered. Column 9 which deals with Municipal tax, Column 10 which deals with Land Revenue, Area and Survey number, Column 12 which deals with Rules of Succession to the Office of Muthawali and Column 13 giving particulars of the Scheme of Administration, its expenditure at the time of registration in Ex.A1, are left blank. No explanation is offered for this. These circumstances throw serious doubt about its genuineness, but the Wakf Tribunal took no notice of them.

73. Chapter IV of the Wakf Act, 1954 deals with registration of wakfs. It's important provisions are Sections 25-28. They state:

"25. Registration.

(1) Every wakf whether created before or after the commencement of this Act shall be registered at the office of the Board.

(2) Application for registration shall be made by the mutawalli : Provided that such applications may be made by the wakif or his descendants or a beneficiary of the wakf or any Muslim belonging to the sect to which the wakf belongs.

(3) An application for registration shall be made in such form and manner and at such place as the Board may prescribe and shall contain the following particulars, so far as possible—

(a) a description of the wakf properties sufficient for the identification thereof ;

(b) the gross annual income from such properties ;

(c) the amount of land revenue and cesses, and of all rates and taxes annually payable in respect of the wakf properties ;

(d) an estimate of the expenses annually incurred in the realisation of the income of the wakf properties ;

(e) the amount set apart under the wakf for-- (i) the salary of the mutawalli and allowances to individuals ; (ii) purely religious purposes ; (iii) charitable purposes ; and (iv) any other purposes ;

(f) any other particulars prescribed by the Board.

(4) Every such application shall be accompanied by a copy of the wakf deed or if no such deed has been executed or a copy thereof cannot be obtained, shall contain full particulars, as far as they are known to the applicant, of the origin, nature and objects of the wakf.

(5) Every application made under sub-section (2) shall be signed and verified by the applicant in the manner provided in the Code of Civil Procedure, 1908 (5 of 1908.) for the signing and verification of pleadings.

(6) The Board may require the applicant to supply any further particulars or information that it may consider necessary.

(7) On receipt of an application for registration, the Board may, before the registration of the wakf, make such inquiries as it thinks fit in respect of the genuineness and validity of the application and the correctness of any particulars therein and when the application is made by any person other than the person administering the wakf property, the Board shall, before registering the wakf, give notice of the application to the person administering the wakf property and shall hear him if he desires to be heard.

(8) In the case of wakfs created before the commencement of this Act, every application for registration shall be made, within three months from such commencement and in the case

of wakfs created after such commencement, within three months from the date of the creation of the wakf.

26. Register of wakfs . *The Board shall maintain a register of wakfs which shall contain in respect of each wakf copies of the wakf deeds, when available and the following particulars, namely :--*

(a) the class of the wakf ;

(b) the name of the mutawalli ;

(c) the rule of succession to the office of mutawalli under the wakf deed or by custom or by usage ;

(d) particulars of all wakf properties and all title deeds and documents relating thereto ;

(e) particulars of the scheme of administration and the scheme of expenditure at the time of registration ;

(f) such other particulars as may be prescribed. Decision if a property is wakf property.

27. Decision if a property is wakf property.

(1) The Board may itself collect information regarding any property which it has reason to believe to be wakf property and if any question arises whether a particular property is wakf property or not or whether a wakf is a Sunni wakf or a Shia wakf, it may, after making such inquiry as it may deem fit, decide the question.

(2) The decision of the Board on any question under subsection (1) shall, unless revoked or modified by a civil court of competent jurisdiction, be final.

28. Power to cause registration of wakf and to amend register. *The Board may direct a mutawalli to apply for the registration of a wakf, or to supply any information regarding a wakf or may itself cause the wakf to be registered or may at any time amend the register of wakfs.”*

74. There is no material to show that any such enquiry under Section 25(7) was conducted by the Wakf Board before registration of the 1st respondent. Had there been any such enquiry, the several columns in Ex.A1 would not have been left blank.

75. Though under Section 74 of the Evidence Act, 1872, Ex.A1 is a public document and under Section 79 the Court 'shall presume' to be genuine every certified copy, the said presumption is a rebuttable one under Section 4 of the Act (**Sodhi Transport Co. v. State of U.P.**¹).

76. Moreover had this document been a genuine document, there would have been a reference to this document in O.S.No.449 of 1976 filed earlier by the 1st respondent against Col. Waheed Khan and which was admittedly dismissed as abated on 04.12.1981.

77. PW1 stated that the suit property, as per Ex.A1, was registered as a Wakf on 15.10.1981. If so, how the 1st respondent claimed the plaint schedule property as Wakf property in O.S.No.449 of 1976, filed five years before 15.10.1981, is not explained by him.

78. In these circumstances, it has to be held that the presumption of genuineness of Ex.A1 stood rebutted, that it is a doubtful document and the said document cannot be taken as evidence of existence of the 1st respondent as a Wakf, entitled to maintain O.S.No.24 of 1998.

¹ 1986(2) SCC 486

79. Point (a) is answered accordingly in favour of the petitioners and against the 1st respondent.

Point (b) :

80. I shall next consider the question whether the plaint schedule property is a Wakf property, assuming for the sake of argument without conceding that the 1st respondent is a Wakf.

81. Before doing so, it is to be noted that it is the 1st respondent which filed the O.S.24 of 1998 for eviction of the petitioners and respondents 2 to 8. So the 1st respondent has to succeed or fail on the title that it establishes and if it cannot succeed on the strength of its title, its suit must fail notwithstanding that the petitioners and respondents 2 to 8 have no title to the property.

82. In **Brahma Nand Puri v. Neki Puri**² the Supreme Court held:

“The plaintiff’s suit being one for ejectment he has to succeed or fail on the title that he establishes and if he cannot succeed on the strength of his title his suit must fail notwithstanding that the defendant in possession has no title to the property, assuming learned Counsel is right in that submission.”

83. In the Wakf Act, 1954, the term ‘Wakf’ is defined in Section 3(l) as under :

“(1) ‘wakf’ means the permanent dedication by a person professing Islam of any movable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable and includes,—

(i) a wakf by user;

² AIR 1965 SC 1506 @ 1508

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

(iii) a wakf-alal-aulad to the extent to which the property is dedicated for any purpose recognised by Muslim law as pious, religious or charitable;
and 'wakif means any person making such dedication.'

84. In the instant case, the pleading of the 1st respondent / plaintiff in the plaint is that it had *purchased* the plaint schedule property under Ex.A.2 Certified copy of the Sale Deed dt.30.03.1973 from its funds from Mrs Zubeida Dost Mohamed Alladin, Mr.Iqbal Alladin, Mr.Habib Alladin, Fareeda Alladin and Noor Mohamed Alladin by paying consideration to them.

85. So, admittedly there was no *dedication* by any person professing Islam for any purpose recognized by Muslim law as pious, religious or charitable.

86. Therefore, for the 1st respondent to succeed that the plaint schedule property belongs to it, it has to establish that its vendors had title and if it fails to do so, then it is not entitled to relief of recovery of possession.

87. It is important to note that, in the plaint filed by the 1st respondent in OS.No.449 of 1976 against Col. Waheed Khan, there was no mention of Ex.A.2. No explanation is furnished by the 1st respondent for this significant omission in the plaint in O.S.No.449 of 1976.

88. The original of Ex.A2 Sale Deed is not filed and no reason is assigned why only it's certified copy of it is filed.

89. Ex.A2 sale deed states that the plaint schedule property was part of the property of the Acs.403.34 guntas purchased by the father of the vendors late Khan Bahaddur Ahmed Alladin in 1947 from the Government of India under a Sale Deed allegedly executed on 15.12.1952; and the 1st respondent offered to purchase the plaint schedule property by way of investment of surplus trust funds in immovable property pursuant to *Article 32 of the Deed of Mecca Madina Alladin Wakf* for a consideration of Rs.45,000/-.

90. The 1st respondent however did not file in O.S.No.24 of 1998, either the link document dt.15.12.1952 or the Deed of Trust/Wakf referred to in the Sale Deed, Ex.A2.

91. PW1 admitted that he did not file the link document under which his grandfather allegedly purchased the plaint schedule property and stated *there is no document of any kind for inheritance of the property or getting the property.*

92. The above circumstances throw serious doubts about the title of the vendors of the 1st respondent under Ex.A.2, but the Wakf Tribunal ignored these circumstances.

93. In his evidence, PW1 stated during cross-examination that the 1st respondent is a Wakf and not a registered Trust and when there is no Trust, the question of existence of any Articles (of Trust) does not

arise. PW1 also stated that he is not aware of any specific resolution passed by the Trust for purchase of the plaint schedule property under Ex.A2 and he had not filed any proof to show that the Trust had funds in 1973 to purchase the property under Ex.A2.

94. The absence of such a resolution or evidence that the 1st respondent had funds of its own to finance the purchase of the plaint schedule property under Ex.A.2, makes it doubtful as to whether the 1st respondent did purchase the property as a fact under Ex.A2.

95. PW.1 admitted that he did not file the Gazette in respect of the suit property or the list of Wakf properties including the suit property. Had the said property been Wakf property, there would have been a Gazette published under Section 5 of the Wakf Act, 1954 after the survey of Wakfs in the State was conducted by the Commissioner of Wakfs under Section 4(3) of the said Act.

96. As regards Ex.A.1, I have already held under Point (a) that it is a doubtful document and cannot be believed.

97. Though counsel for the 1st respondent sought to contend that in the Assessment Register of the Municipal Corporation of Hyderabad initially the name of Khan Bahadur Ahmed Alladin, the grand-father of the vendors of the 1st respondent was mentioned, and only later under Ex.B.14, the names of petitioner nos.2 to 6 were mutated on 31.12.1997, and this proves that the vendor of the 1st respondent had title to the plaint schedule property, the said contention has no merit because it is settled law that mutation in Municipal Records is not

evidence of title to any property. (**R.V.E. Venkatachala Gounder vs. Arulmigu Visweswaraswami & V.P. Temple**³ where it was held that entry in Municipal Record is not evidence of title).

98. Under Section 90 of the Wakf Act, 1995 in every suit or proceeding relating to a title to or possession of a Wakf property or the right of a Mutawali or beneficiary, the Court or Tribunal shall issue a notice to the Wakf Board at the cost of the party instituting such suit or proceeding. In the instant case, admittedly the Wakf Board was not made a party to the suit, but during the pendency of the suit, a notice under Section 90 was served on the Wakf Board, but it did not appear. If really, the plaint schedule property was Wakf property, the Wakf Board would have supported the 1st respondent by getting impleaded in the suit. The Wakf Tribunal, on the contrary, construed this conduct of the Wakf Board as *non-denial of the case of the 1st respondent*. This inference cannot be sustained and has to be held to be perverse.

99. The whole approach of the Wakf Tribunal in the impugned order is to question the pleading and evidence of the petitioners and focus on the plea of the petitioners who claimed title by adverse possession, instead of probing the claim of the 1st respondent/plaintiff as to its title to the plaint schedule property.

100. It cannot ignore the fact that it is the duty of the 1st respondent/plaintiff, having filed a suit for recovery of possession, to

³ (2003) 8 S.C.C. 752 (Para no.26)

prove its title and the 1st respondent cannot rely on the weakness, if any, in the case of the petitioners to succeed in the suit.

101. Therefore, I hold on Point (b) that the plaint schedule property is not Wakf property.

Point (c) :

102. I shall consider the question whether O.S.No.24 of 1998 is barred in view of dismissal of O.S.No.449 of 1976 filed by the 1st respondent against Col. Waheed Khan on 04.12.1981.

103. Admittedly, the 1st respondent had filed O.S.No.449 of 1976 against Col. Waheed Khan before the III Additional Judge, City Civil Court, Secunderabad in respect of the plaint schedule property alleging that it is Wakf property and that he was a tenant of the said property, that he had committed default in payment of rents, that it had terminated his tenancy through a legal notice dt.29.07.1973, and that it had asked him to deliver vacant possession of the property by 31.08.1973.

104. In Ex.B.8 Written Statement filed by Col. Waheed Khan in the said suit he not only denied the ownership of the 1st respondent of the plaint schedule property, but also denied that he was the tenant of the 1st respondent. He specifically pleaded that he is the absolute owner of the plaint schedule property and was in uninterrupted possession from 1953 and had perfected his title by adverse possession. He also denied that the plaint schedule property is Wakf property.

105. Pending suit, he died on 28.10.1980. The 1st respondent filed I.A.No.61 of 1981 on 21.01.1981 to bring on record his legal heirs in the said suit. The said I.A.61 of 1981 was dismissed for default on 04.12.1981 and consequently the suit was also dismissed as abated on 04.12.1981 (Ex.B.9).

106. The question therefore to be considered is what is the effect of dismissal of the suit as abated.

107. Order XXII Rule 9 (1) C.P.C. states that where a suit abates or is dismissed under this order, no fresh suit shall be brought on the same cause of action.

108. A Division Bench of the Madras High Court in **Rahimunnissa Begam and others vs. M.A. Srinivasa Ayyangar**⁴ held that an order of abatement operates as a judgment in favour of the defendant and the only course open to a legal representative of the deceased-plaintiff to escape the effect of abatement is to apply to set aside the abatement. If he does not succeed in vacating the judgment and so long as the defendant continues in possession, the order of abatement is conclusive of the defendant's right to the property. The Madras High Court followed the decision of the Privy Council in **Brij Indar Singh vs. Kanshi Ram**⁵ that an order abating the suit amounts to a judgment in favour of the defendant.

⁴ A.I.R. 1920 Madras 580

⁵ A.I.R. 1917 P.C. 156

109. In **Kamatchi Ammal vs. Athigamudaya Pillai and others**⁶, the Madras High Court followed the above two decisions and clarified that if the plaintiff whose suit has abated cannot again bring a fresh suit on the same cause of action, and the earlier decision should be deemed to be a decision against him, he cannot get rid of the effect of the earlier decision even if he happens to be a defendant in a subsequent suit. It held that even in the subsequent suit where he is a defendant, it should be held that he would be barred from agitating the same questions.

110. This legal position is not disputed by counsel for the 1st respondent. The decisions of the Madras High Court rendered prior to 01.11.1956 are binding on the Andhra High Court, and its successors, the Andhra Pradesh High Court and the High Court of Telangana.

111. Therefore, I hold that in view of Order XXII Rule 9 C.P.C., the suit O.S.No.24 of 1998 filed by the 1st respondent is barred because O.S.No.449 of 1976 filed earlier by it against the predecessors in title of the petitioners, i.e., Col. Waheed Khan was admittedly dismissed as abated on 04.12.1981 and the said judgment was not challenged by the 1st respondent.

112. Since the claim of the 1st respondent that the plaint schedule property is a Wakf property in O.S.No.449 of 1976 is thus deemed to have been rejected, it cannot re-agitate the issue by filing O.S.No.24 of 1998. The plea of Col. Waheed Khan in O.S.No.449 of 1976 that

⁶ A.I.R. 1969 Madras 426

he is the owner of the plaint schedule property and is not the tenant of the 1st respondent is deemed to have been upheld and the petitioners are entitled to rely on the same to defeat the claim of the 1st respondent in O.S.No.24 of 1998.

113. Point (c) is answered accordingly in favour of the petitioners and against the 1st respondent.

Point (d):

114. I shall now consider whether Col. Waheed Khan was a tenant of the 1st respondent as is contended by it.

115. In this regard it is to be noted that in Ex.A-2 sale deed dt.30.03.1973 under which the 1st respondent claims to have purchased the plaint schedule property, the name of tenant in whose possession the plaint schedule property is said to be was not mentioned. The said document merely states:

“The Vendors have this day handed over possession of the said property to the purchaser by attorning the tenant to the purchaser and it will be lawful for the purchaser to deal with and enjoy the said property without any hindrance or obstruction from the Vendors or any person claiming through or for them.”

116. Why the name of Col. Waheed Khan was not mentioned in Ex.A-2 if he was in possession of the plaint schedule property from 1953 is not explained by the 1st respondent.

117. According to P.W-1 Col. Waheed Khan was in possession since late 1950s as tenant, but he admitted that he did not have any records

about the tenancy of Col. Waheed Khan, and he was not aware whether his predecessors in office have got any record of collection of rent in respect of the plaint schedule property. He also stated that except mentioning in Ex.A-2 that the tenancy was attorned, no proof was filed into Court.

118. He also admitted that possession of Col. Waheed Khan was continued by his legal representatives after his death as tenant, but he had no documentary evidence to show that respondents 2 to 8 were tenants.

119. These admissions of P.W-1 were ignored by the Wakf Tribunal and simply on the statement of P.W-1 that Col. Waheed Khan was the tenant of the vendors of 1st respondent, though there was no mention of his name in Ex.A-2 sale deed, it gave a finding that he was a tenant.

120. Therefore, this point is answered holding that there is no evidence that Col. Waheed Khan or his legal representative were tenants of the 1st respondent or its predecessors in title and the Wakf Tribunal's finding to the contrary is perverse.

Point (e):

121. Under this point, I shall consider if Col.Waheed Khan and his legal heirs/respondent Nos.2 to 8 have perfected title to the plaint schedule property by adverse possession against the 1st respondent/plaintiff.

122. In O.S.No.449 of 1976 itself filed against him for eviction by the 1st respondent, Col.Waheed Khan claimed that he had acquired title to the plaint schedule property by way of adverse possession and asserted that he was in possession of the same from 1953.

123. P.W.1 admitted that Col.Waheed Khan was in possession of the plaint schedule property since late 1950s and that his possession was continued by his legal representatives after his death on 28-10-1980 as tenants. I have already held under point (d) that Col.Waheed Khan and his legal representatives were not proved by the 1st respondent to be its tenants.

124. Therefore there is no dispute that Col.Waheed Khan was in open, continuous and hostile possession from 1950s till his death on 28-10-1980 and thereafter his legal heirs continued in possession till they sold to the petitioner Nos.2 to 6 under Exs.B-1 to B-6 in October, 1996. Thereafter the subject suit was filed on 23-03-1998 by the 1st respondent.

125. In my opinion, Col.Waheed Khan's possession of the plaint schedule property from late 1950s till filing of O.S.No.449 of 1976, and such possession after he denied title of the 1st respondent/plaintiff till his death on 28-10-1980, and thereafter the possession of his legal heirs till October, 1996, because of its open, hostile and continuous nature for a period more than 12 years, conferred title on the legal heirs of Col.Waheed Khan by way of adverse possession. So

respondents 2 to 8 were entitled to convey valid title to petitioners 2 to 6 by Exs.B-1 to B-6.

126. Thus the title, if any, of the 1st respondent in relation to the plaint schedule property stood extinguished. Accordingly this point is answered holding that Col.Waheed Khan's legal heirs/respondent Nos.2 to 8 acquired title by adverse possession against the 1st respondent.

Point (f) :

127. The petitioners had shown that respondents 2 to 8 were not necessary parties to the suit.

128. So under this point, I shall consider the question 'Whether failure of petitioners in the Revision to implead respondents 2 to 8 is fatal to the Revision?'

129. Even by the date of filing of the suit O.S. No.24 of 1998, there were sale deeds Exs.B-1 to B-6/Exs.A-9 to A-14 executed in 1996 in favour of the petitioners 2 to 6 by respondents 2 to 8. They were impleaded in the suit by the 1st respondent on filing of written statement by petitioner No.1 mentioning about the said sale deeds. Then the plaint was amended and petitioners 2 to 6 were impleaded.

130. In **Beli Ram and brothers and others v. Chaudhri Mohammed Afzal and others**⁷, the Privy Council has held that if there is an alienation of a property by a defendant prior to a suit, then

⁷ AIR 1948 PC 168

the alienees will not be bound by the adverse order against the defendant in the suit because the alienees do not claim under a party to the former suit who represented their interests in that suit, but under a person who subsequently became a party, and who at the time of the suit did not represent their interests.

131. The Privy Council observed:

“It is apparent, therefore, that the matter directly and substantially in issue in the former suit and in the present suit, namely, the validity of the wakf, was the same; that the plaintiffs in the two suits were the same except for the fourth plaintiff in the present suit, who would be bound under Explanation 6 to Section 11, Civil P.C. The defendants were the same in the two suits except for appellants 2 and 3 who were not parties to the former suit. It is contended that appellants 2 and 3 are bound by the decree in the former suit because they claim through Din Mohammad who was a party to that suit. But the answer to this contention is that the alienations under which appellants 2 and 3 claim were made before the date of the former suit. Those appellants therefore do not claim under a party to the former suit who represented their interests in that suit, but under a person who subsequently became a party, and who at the time of the suit did not represent their interests.”

132. Applying this principle, even by the date of the suit, respondents 2 to 8 had no right, title or interest in the plaint schedule property, and their interests had been conveyed to the petitioners and so the petitioners are not claiming under parties who represented their interests in the suit. So though order of the Wakf Tribunal was not challenged by respondents 2 to 8, it does not bind the petitioners as they were not represented by respondents 2 to 8 in the suit and had contested the suit on their own.

133. So respondents 2 to 8 are not proper or necessary parties to the Revision and were rightly shown to be not necessary parties to the suit.

134. I reject, therefore, the contention of the Counsel for 1st respondent that findings of the Wakf Tribunal against respondents 2 to 8/Defendants 1 to 6 had attained finality and there cannot be any interference with those findings in this Revision to the detriment of the 1st respondent.

Point (f) :

135. Now I shall consider the question whether the order of the Tribunal is liable to be interfered with in exercise of Revisional powers on this Court under Proviso to Sec.83(9) of the Wakf Act,1995.

136. Section 83(9) of the Wakf Act, 1995 states:

“83(9) No appeal shall lie against any decision or order whether interim or otherwise, given or made by the Tribunal:

Provided that a High Court may, on its own motion or on the application of the Board or any person aggrieved, call for and examine the records relating to any dispute, question or other matter which has been determined by the Tribunal for the purpose of satisfying itself as to the correctness, legality or propriety of such determination and may confirm, reverse or modify such determination or pass such other order as it may think fit.”

137. Similar provision contained in statutes dealing with eviction of tenants in the statutes enacted by States of Tamilnadu, Kerala and Haryana had been considered by a Constitution Bench of the Supreme

Court in **Hindustan Petroleum Corpn. Ltd. v. Dilbahar Singh**⁸ and

it was held:

“43. We hold, as we must, that none of the above Rent Control Acts entitles the High Court to interfere with the findings of fact recorded by the first appellate court/first appellate authority because on reappreciation of the evidence, its view is different from the court/authority below. The consideration or examination of the evidence by the High Court in revisional jurisdiction under these Acts is confined to find out that finding of facts recorded by the court/authority below is according to law and does not suffer from any error of law. A finding of fact recorded by court/authority below, if perverse or has been arrived at without consideration of the material evidence or such finding is based on no evidence or misreading of the evidence or is grossly erroneous that, if allowed to stand, it would result in gross miscarriage of justice, is open to correction because it is not treated as a finding according to law. In that event, the High Court in exercise of its revisional jurisdiction under the above Rent Control Acts shall be entitled to set aside the impugned order as being not legal or proper. The High Court is entitled to satisfy itself as to the correctness or legality or propriety of any decision or order impugned before it as indicated above. However, to satisfy itself to the regularity, correctness, legality or propriety of the impugned decision or the order, the High Court shall not exercise its power as an appellate power to reappreciate or reassess the evidence for coming to a different finding on facts. Revisional power is not and cannot be equated with the power of reconsideration of all questions of fact as a court of first appeal. Where the High Court is required to be satisfied that the decision is according to law, it may examine whether the order impugned before it suffers from procedural illegality or irregularity.”(emphasis supplied)

⁸ (2014) 9 SCC 78

138. Therefore the same parameters also apply to exercise of power of Revision conferred on the High Court under proviso to Section 83 (9) of the Wakf Act, 1995.

139. While discussing point (a) dealing with the question whether the 1st respondent is a Wakf or not, I have already recorded a finding that the inconsistencies in the evidence of P.W-1 whether the 1st respondent is a Wakf or a Trust were ignored by the Wakf Tribunal and in the absence of evidence as to whether there was a registration of the 1st respondent as a Wakf at all, having regard to the several blanks contained in Ex.A-1, there is also a serious doubt as to whether any enquiry under Section 25(7) of the Wakf Act, 1954 was carried out by the Wakf Board, and so the 1st respondent cannot be said to be a Wakf.

140. While dealing with point (b) as to whether the plaint schedule property is a Wakf property or not, I have held that several circumstances showing that the vendor of the 1st respondent had no title to the plaint schedule property were not taken note of by the Wakf Tribunal; and that it had also ignored the principle of law that the 1st respondent should succeed on the strength of its title and not on the weakness of the petitioners case.

141. I have held under point (c) while considering the question whether O.S. No.24 of 1998 is barred in view of dismissal of O.S. No.449 of 1976 filed by the 1st respondent against Col. Waheed Khan

on 04.12.1981, that effect of Order XXII Rule 9(1) CPC has not been considered by the Wakf Tribunal.

142. Under point (d) I have held that the finding of the Wakf Tribunal that Col. Waheed Khan or his legal representatives were tenants of the 1st respondent or its predecessors in title is perverse.

143. Therefore, in the light of the above findings, a case had been made out by the petitioners for interference with the decision of the Wakf Tribunal not only on the ground of perversity, but also non-consideration of material evidence/misreading of evidence. In my considered opinion, if the findings of Wakf Tribunal are allowed to stand, it would result in gross miscarriage of justice, and it's decision is contrary to law.

144. Accordingly, the Civil Revision Petition is allowed with costs of Rs.10,000/- (Rupees ten thousand only) to be paid by the 1st respondent to the petitioners; order dt.22.01.2007 in O.S. No.24 of 1998 of the A.P. Wakf Tribunal, Hyderabad is set aside; and the said suit is dismissed. I also hold that petitioners have valid title to the plaint schedule property conveyed to them by respondents 2 to 8 and that their predecessors/legal heirs of Col. Waheed Khan, having succeeded in O.S. No.449 of 1976 against the 1st respondent, had title to the plaint schedule property.

145. As a sequel, the miscellaneous petitions, if any pending, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 23-09-2019

LR copy to be marked : Yes

B/o.

Gra/Ndr/Mrkr

