



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order reserved on : 08.10.2025

Order pronounced on : 14.11.2025

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THE HONOURABLE MR JUSTICE P.B. BALAJI

CRP.Nos.1898, 1897, 1900 to 1906, 1908 & 1909 of 2025
& CMP.Nos.10919, 10920, 10921, 10922, 10931, 10934, 10926, 10927,
10928, 10914 & 10917 of 2025

S.Priya

... Petitioner in
CRP.No.1898 of 2025

M.Ramachandran

... Petitioner in
CRP.No.1897 of 2025

N.Velayutham Gounter

... Petitioner in
CRP.No.1900 of 2025

S.Syed

... Petitioner in
CRP.No.1901 of 2025

G.Udhayakumar

... Petitioner in
CRP.No.1902 of 2025

N.Nafeesha

... Petitioner in
CRP.No.1903 of 2025

Syed Amid Sahib

... Petitioner in
CRP.No.1904 of 2025

G.Elumalai

... Petitioner in
CRP.No.1905 of 2025



WEB COPY K.Arunachalam

... Petitioner in
CRP.No.1906 of 2025

B.Lalitha Ammal

... Petitioner in
CRP.No.1908 of 2025

M.Azhagesan

... Petitioner in
CRP.No.1909 of 2025

Vs.

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai – 606 604.

2.The Tamil Nadu Waqf Board
Rep. by its Chief Executive Officer,
No.1.Jaffer Syrans Street,
Vallal Seethakathi Nagar,
Mannadi, Chennai – 600 001.

3.Nawab Chanda Mian Masjid & Mir Momin
Madab Tomb Waqf
Rep. by its Muthawalli,
No.77, Mathalakula Street,
Tiruvannamalai.

... Respondents in all CRPs

Common Prayer: Civil Revision Petitions filed under Section 115 of CPC, to set aside the order passed in A.A.SR.Nos.2042, 2045, 2043, 2040, 2046, 2047, 2044, 2039, 2041, 2055 & 2028 of 2024 dated 24.01.2025 by the Tamil Nadu Waqf Tribunal, Chennai.



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For Petitioner : Mr.S.Mukunth
Senior Counsel for Mr.R.K.Ramaiah
in all CRPs

For Respondents : Mrs.R.Anitha
Special Government Pleader
for R1 in all CRPs

Mr.Y.Kaja Navas for R3 in all CRPs

No appearance for R2

COMMON ORDER

These revisions petitions have been filed by the revision petitioners, challenging the order passed by the Tamil Nadu Waqf Board, rejecting their statutory appeals filed under Section 52(4) of the Wakf Act, 1995.

2.I have heard Mr.S.Mukunth, learned Senior Counsel for Mr.R.K.Ramaiah, learned counsel for the petitioner and Mr.Y.Kaja Navas, learned counsel for the 3rd respondent and Mrs.S.Anitha, learned Special Government Pleader for the 1st respondent in all the revision petitions.



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3.Mr.S.Mukunth, learned Senior Counsel appearing for the petitioner would submit that lands in S.No.26/4B at Velankanandal village, Tiruvannamalai Taluk, were notified as Inam lands under Section 1(4) of the Madras Inam Estate (Abolition and Conversion to Ryotwari) Act, 1963, and lands were taken over by the Government on 15.04.1965 and thereafter, Ryotwari patta has been issued by the revenue authorities in favour of the vendor's vendor of the petitioners by name, S.W.Buhari. Close to a decade later, there was a rival claim made by the Muthawalli of the 3rd respondent and the matter was remitted to the Settlement Tahsildar, Chengalpet and after enquiry, the Settlement Tahsildar, Chengalpet confirmed the Ryotwari patta in the name of said S.W.Buhari, under whom, the present revision petitioners claim. Aggrieved by the order of the said Settlement Tahsildar, Chengalpet, the Muthawalli of the 3rd respondent filed an appeal belatedly before the RDO, Tiruvannamalai. The said appeal was dismissed on 18.06.1992, as it was filed beyond the statutory period of 90 days. Thereafter, one of the legal heirs of S.W.Buhari filed O.S.No.303 of 1991 against the 3rd respondent for declaration and permanent injunction. The said suit was decreed in favour of the plaintiff on 29.06.1999. The 3rd



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respondent did not choose to prefer any appeal and hence, the decree became final and binding as between the parties. Thereafter, the said legal heir of S.W.Buhari has sold the lands to one Ezhumalai, who subsequently settled the property in favour of his son, Suresh, who in turn settled the property in favour of his wife, the petitioner in CRP.No.1898 of 2025.

4.In the meantime, the 3rd respondent filed O.S.No.93 of 2009, challenging the sale deed in favour of Ezhumalai. The said suit was dismissed on 17.04.2009. Though the 3rd respondent filed CRP.NPD.No.95 of 2010, challenging the dismissal of the suit, the same was also dismissed for non-prosecution. Thereafter, 3rd respondent also filed W.P.No.12161 of 2012 against respondents 1 and 2 seeking issuance of a writ of Mandamus to initiate action against the patta granted to third parties, without hearing the 3rd respondent, referring to Section 52(2) of the Waqf Act. The writ petition was allowed on 02.08.2013 and a direction was issued as prayed for by the 3rd respondent.



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5.However, it is the contention of Mr.S.Mukunth, learned Senior Counsel that the petitioners were never arrayed as parties in the said writ petition and further, the 3rd respondent has misled this Court, by contending that the suit in O.S.No.93 of 2009 had been decreed while in fact, it has been dismissed. Therefore, Mr.S.Mukunth, learned Senior Counsel would contend that based on the order passed in the writ petition, the 3rd respondent, alleging wilful disobedience on the part of the officials, filed a contempt petition in Cont.P.No.1807 of 2007 against the 1st respondent and the RDO, Tiruvannamalai, conducted a detailed enquiry and submitted his report to the Collector on 06.08.2014, pointing out that the 3rd respondent has failed to establish title to the subject property and that even the claim over title in O.S.No.93 of 2009 was rejected with the dismissal of the said suit.

6.Close to a decade later on 13.02.2024, the Muthawalli of the 3rd respondent filed W.P.No.34481 of 2023, again, without adding the revision petitioners in whose names, pattas had been mutated and obtained an order directing the 1st respondent to remove encroachments, as if the revision



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petitioners were all encroachers. On 19.11.2024, the 1st respondent issued notices under Section 52 of the Tamil Nadu Waqf Act, calling upon the petitioners to vacate and hand over vacant possession within a period of 30 days. The petitioners have sent a response, narrating all the irregularities and also claiming right to the subject lands in and by a representation dated 27.11.2024. The petitioners have also filed an appeal under Section 52(4) of the Waqf Act. However, the appeals have not been entertained and even at the numbering stage, the Tribunal has rejected the appeals, referring to the orders passed by this Court in W.P.No.12161 of 2012 and W.P.No.34481 of 2023.

7.Mr.S.Mukunth, learned Senior Counsel would first and foremost contend that in both these writ petitions, the petitioners were not arrayed as parties, though revenue records admittedly stand mutated in their names and further, this Court has been misled, as if the 3rd respondent obtained a decree in its favour, establishing their rights over the subject properties. The learned Senior Counsel would therefore state that an opportunity ought to be given to the petitioners to put forth their legitimate objections and



without even giving them any opportunity, their rights cannot be shut out at the very inception, which would result in disastrous consequences of the petitioners being dispossessed from their own properties. Mr.S.Mukunth, learned Senior Counsel would also state that till date, the 3rd respondent has not been able to establish their right and entitlement to the subject lands. He would therefore pray for the revisions being allowed.

8.Per contra, Mr.Y.Kaja Nawas, learned counsel for the 3rd respondent would submit that the lands belonging to the Waqf cannot be taken over even by the Government and there is an express bar under Sections 4, 5 and 6 of the Waqf Act in this regard. He would further state that the grievance of the petitioners can only be addressed by their approaching the Court under Section 6 of the Waqf Act before the Tribunal and admittedly, the petitioners have not filed any such suit before the Tribunal. Mr.Y.Kaja Nawas, learned counsel would further state that the properties involved in the suit have already been notified after survey and enquiry by the Assistant Commissioner of Waqf, Madras State and the notification has become final and a scheme decree was also passed way back on 17.10.1933 in O.S.No.31 of 1933.



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9.Mr.Y.Kaja Navas would also place reliance on the Gazette Notification of the Waqf and Proforma of the Waqf dated 11.02.1959 and in such circumstances, he would contend that the Waqf Act both the 1954 Act as well as the present 1995 Act being special legislations, the general legislation, namely the Tamil Nadu Minor Inams (Abolition and Conversion) to Ryotwari Act, Act 26 of 1963 cannot override the provisions of the Waqf Act and in any event, the Waqf Board was not heard by the Settlement Tahsildar at the time of conducting enquiry.

10.Once the Government itself did not have any right to take over Inam lands, the petitioners who admittedly claim right under the Government, are only encroachers and they are liable to vacate and deliver possession to the 3rd respondent. Mr.Y.Kaja Nawas, learned counsel would further state that in W.P.No.14819 of 2015, this Court upheld the notice issues to the encroacher, finding that the properties involved in the impugned notice were totally unconnected to O.S.No.93 of 2009 and CRP.No.95 of 2010. He would further state that the statutory appeal remedy



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against the order of the 1st respondent ought to have been filed even in the year 2015 and the petitioners cannot take advantage of the present notice dated 19.11.2024 issued, pursuant to directions of this Court in W.P.No.34481 of 2023. Mr.Y.Kaja Nawas, learned counsel would also relied on the decision of the Hon'ble Supreme Court in *Sayyed Ali and others Vs. Andhra Pradesh Waqf Board, Hyderabad and others*, reported in *AIR 1998 SC 972*, where the Hon'ble Supreme Court held that the Tahsildar was not a competent to decide whether the property was a Waqf property or not and such decision would be only by way of recourse to Section 6 of the Waqf Act. He would therefore pray for the revisions being dismissed.

11.I have carefully considered the submissions advanced by the learned Senior Counsel for the petitioner and the learned counsel counsel for the respondent.

12.Firstly, it is to be noted that as between the petitioners' predecessors in title and interest and the 3rd respondent herein, there has been a civil suit which ended in favour of the predecessors in interest of the



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revision petitioners. The said decree has admittedly become final, as between the said predecessors in title of the petitioner and the 3rd respondent. Therefore, it cannot now be contended that the revision petitioners, who are claiming right under the said predecessors in interest are encroachers.

13. Secondly, the orders obtained in the writ petitions by the 3rd respondent were on the basis that the 3rd respondent had succeeded in the suit filed against the predecessors in interest of the revision petitioners. The records show it to be otherwise. The 3rd respondent has suffered adverse orders and such adverse orders have become final. However, under a misconception that the 3rd respondent had succeeded in the said suit, this Court proceeded to issue directions, based on which, the petitioners are now being treated as encroachers and they are called upon to vacate and hand over vacant possession.

14. Thirdly, the lands which are now subject matter of the dispute are pertaining to S.No.26/4B. From the scheme decree as well as the proforma



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report, I do not find that the said lands have been notified as properties of the Waqf. No doubt, it is possible that as contended by Mr.Y.Kaja Nawas that since the scheme decree was way back in the year 1933 and the proforma report itself was in the year 1959, the documents reflect only in old survey numbers and may not include the present survey numbers. However, at the same time, the 3rd respondent has to establish correlation between the survey numbers before the 3rd respondent can stake a claim over the property.

15.In view of all the above, I do not see how the petitioners can be non-suited at the very threshold, that too, referring to the orders passed by this Court on the writ side, which as already been discussed herein above were passed under the impression that this Court was made to believe that the 3rd respondent had succeeded in the civil suit, contrary to the fact that the suit had been dismissed. In the light of the above, I am inclined to allow these revision petitions and direct the Waqf Tribunal to entertain the appeals filed by the revision petitioners and after affording a fair opportunity, including a personal hearing to all the revision petitioners, the respective



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appeals of the revision petitioners, shall be disposed on merits and in accordance with law.

16.Mr.Y.Kaja Navas, learned counsel appearing for the respondents, requested for a time frame to be fixed for the appeal to be decided on merits.

17.Mr.R.K.Ramaiah, learned counsel on record for the revision petitioner would submit that some interim protection may be given till the appeals are heard. Mr.Y.Kajanavas, learned counsel, however states that in terms of the Act, pending the appeals, no coercive steps will be taken. His statement is recorded and it would sufficiently protect the interest of the revision petitioner.

18.Insofar as the request of Mr.Y.Kajanavas, the Waqf Tribunal shall dispose of the appeals within a period of three months from the date of receipt of a copy of this order.



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19. In fine, the Civil Revision Petitions are allowed. The orders passed in A.A.SR.Nos.2042, 2045, 2043, 2040, 2046, 2047, 2044, 2039, 2041, 2055 & 2028 of 2024 dated 24.01.2025 by the Tamil Nadu Waqf Tribunal, Chennai, are set aside. There shall be no order as to costs. Connected Civil Miscellaneous Petitions are closed.

14.11.2025

Neutral Citation: Yes/No
Speaking Order/Non-speaking Order
Index : Yes / No
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To

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Tiruvannamalai District,
Tiruvannamalai – 606 604.

2.The Tamil Nadu Waqf Board
Rep. by its Chief Executive Officer,
No.1.Jaffer Syrans Street,
Vallal Seethakathi Nagar,
Mannadi, Chennai – 600 001.

3.Tamil Nadu Waqf Tribunal, Chennai.



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P.B. BALAJI,J.

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Pre-delivery order made in
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& CMP.Nos.10931, 10934, 10914, 10917, 10919 to 10922, 10926 to 10928
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