



C.R.P.No.2204 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04..07..2025

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.2204 of 2025

and

C.M.P.No.12792 of 2025

Janab K.S.Mohamed Sarfudeen

..... Petitioner

-Versus-

1.Jumma Pallivasal,
Rep. by its President,
Janab A.Azhar,
Having Office at No.13, Thilagar Street,
Thirumazhisai, Chennai 600124.

2.The Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Chennai 600001.

..... Respondents

Petition filed under Article 227 of the Constitution of India, praying to set aside the judgement and decree dated 23.04.2024 made in O.S.No.52 of 2019 on the file of the Tamil Nadu Waqf Tribunal, Chennai.

For Petitioner : *Ms.Rekha S.*

For Respondent : *Mr.K.H.M.Afzal and
Ms.N.Rabiya for R1
Mr.S.Haja Mohideen Gisthi,
Senior Standing Counsel for R2*



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ORDER

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The challenge is to the judgement and decree dated 23.04.2024 passed in O.S. No.52 of 2019 by the Tamil Nadu Waqf Tribunal, Chennai, whereby a permanent injunction was granted against the 1st defendant, Janab K.S. Mohamed Sarfudeen, his men, servants, and agents, restraining them from in any manner disturbing the management and administration of the plaintiff Waqf, as well as the reconstruction of the Jumma Pallivasal at Thirumazhisai, on its property comprised in S. No. 215/15 of Thirumazhisai Village.

2. The revision petitioner is the 1st defendant in the suit. The 1st respondent, Jumma Mosque, is the plaintiff, and the 2nd respondent, the Waqf Board, is the 2nd defendant. For the sake of convenience, the parties in this revision will hereinafter be referred to as per their respective ranks in the suit.

3.1 The suit property was originally purchased by K.K. Sheik Mohammed, the father of the 1st defendant, under three different sale deeds dated (i) 06.07.1954, (ii) 17.06.1956, and (iii) 22.10.1968, measuring an extent of 2,112, 396, and 1,980 square feet of land respectively. After the purchase, the father of the 1st defendant executed a registered Will dated 14.12.1978, by which he bequeathed all the properties he had purchased and thereby created a



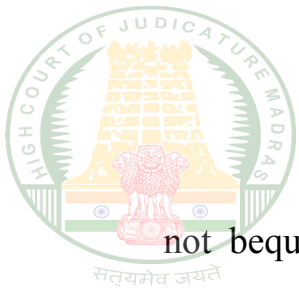
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Waqf under the said Will/Waqf Deed. However, the Will imposed a condition that his legal representatives or any of his descendants would have no right to

interfere with the management of the Jumma Mosque, which was to be maintained and administered by a committee comprising representatives from four villages – Thirumazhisai, Udayavarkoil, Madavilagam, and Piraayampattu.

3.2. The plaintiff mosque pleaded that the entire area, including the suit properties, is under the control and management of the mosque. In 2012, the suit properties, along with an additional 25 cents of natham poramboke land comprised in S. No. 215/5, which was being used as Qabrastan (graveyard) by the mosque, were registered and notified as Waqf properties. The mosque was originally managed by a five-member committee, and even the 1st defendant was once a member of such committee. Subsequently, the 1st defendant began asserting an individual claim over 528 square feet of land, which led to the institution of the present suit.

4.1 The 1st defendant contested the suit and while admitting the execution of the Will by his father, contended inter alia that the Will dated 14.12.1978 was executed only in respect of 3,968 square feet of land for charitable purposes by creating a Waqf. He specifically asserted that out of the total extent of land purchased by his father, an extent of 528 square feet was



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not bequeathed under the said Will-cum-Waqf Deed dated 14.12.1978, and

therefore, did not form part of the Waqf properties.

4.2 The 1st defendant specifically laid a claim over 528 square feet of land and made several allegations concerning the mismanagement of the mosque.

5. The 2nd defendant waqf tribunal has supported the case of the plaintiff mosque.

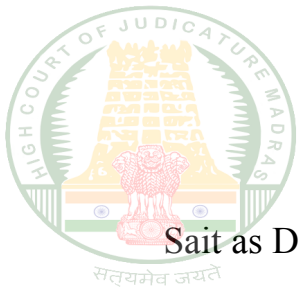
6. Before the Waqf Tribunal, during trial of the suit, the following issues were framed:

(1) Whether the plaintiff is entitled to the relief of permanent injunction as prayed for?

(2) Whether the plaintiff is entitled for cost?

(3) To what other reliefs the plaintiff is entitled to?

7. During the trial, on the side of the plaintiff, A. Azhar, the President of the plaintiff mosque, examined himself as P.W.1 and marked documents Ex.A.1 to Ex.A.34. On the side of the defendants, the 1st defendant examined himself as D.W.1 and, in support of his claim, examined A. Mohammed Sali



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Sait as D.W.2 and marked documents Ex.B.1 to Ex.B.32.

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8. Upon considering the oral and documentary evidence on record, and taking note of the fact that the suit property is under the control of the Waqf Board, the Tribunal granted the injunction as prayed for. Aggrieved by the said judgment and decree, the 1st defendant has preferred the present revision before this Court.

9. This court has heard Ms.Rekha S, learned counsel for the revision petitioner/1st defendant, Mr.K.H.M.Afzal learned counsel for the 1st respondent and Mr.S.Haja Mohideen Gisthi, learned senior standing counsel for the 2nd respondent/2nd defendant-mosque.

10. Now, the point that arise for consideration in this revision petition is

Whether the 1st defendant (revision petitioner) was in possession of the suit property so as to resist the suit for permanent injunction filed by the plaintiff mosque?

11. In a suit for permanent injunction, the primary consideration is the possession of the property. The plaintiff must prove lawful possession and demonstrate a threat of interference. Conversely, a defendant can resist such a suit by showing that he is in possession or has a better claim to possession/title.

12. It is the case of the Waqf Board that the suit properties were



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originally purchased by the father of the 1st defendant under three different sale deeds, and were subsequently bequeathed by him by creating a Waqf under Ex.A.3 - Will-cum-Waqf Deed dated 14.12.1978. The execution of the said Will and the creation of the Waqf by the father of the 1st defendant are not disputed by the 1st defendant.

13. It is the further contention of the Waqf Board that the entire extent of land covered under the three sale deeds marked as Ex.A.1, Ex.A.2, and Ex.B.2 had been bequeathed by the father of the 1st defendant under Ex.A.3, the Will-cum-Waqf Deed dated 14.12.1978. On the other hand, it is the specific contention of the 1st defendant that his father did not bequeath the entire extent of land purchased under Ex.A.1, Ex.A.2, and Ex.B.2. According to him, Ex.A.3, Will-cum-Waqf Deed, covers only an extent of 3,960 square feet of land, and not the entire extent of property purchased under the aforesaid sale deeds. Hence, the 1st defendant asserted that an extent of 528 square feet of land exclusively belongs to his family and does not form part of the Waqf created under the Will dated 14.12.1978. On the strength of these contentions, he resisted the suit.

14. It is relevant to note that the suit is one for a decree of bare injunction, seeking to restrain the 1st defendant, Janab K.S. Mohamed Sarfudeen, his men, servants, and agents from in any manner disturbing the

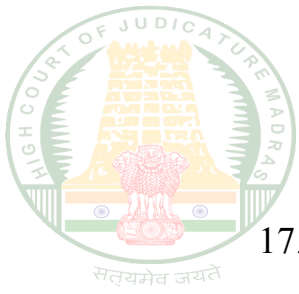


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management and administration of the plaintiff Waqf, as well as the reconstruction of the Jumma Pallivasal at Thirumazhisai, on the property comprised in Survey No. 215/15 of Thirumazhisai Village.

15. The plaintiff mosque pleaded that the properties purchased under Ex.A.1, Ex.A.2, and Ex.B.2 were in its possession. The 1st defendant was also a member of the committee that managed the mosque for a period of time. This aspect of the matter was not disputed by the 1st defendant in his written statement. The only dispute raised by him pertained to the extent of land covered under the Will (Ex.A.3). Though there appears to be some justification in the contention of the 1st defendant that the properties purchased by his father were not entirely included in Ex.A.3, the fact remains that the remaining extent of 528 square feet is also under the possession of the plaintiff mosque, along with other revenue land measuring 25 cents, which has also been treated as Waqf property by way of a resolution passed by the then managing committee of the mosque. At that point in time, the revision petitioner/1st defendant was himself a member of the said committee.

16. Be that as it may, the 1st defendant has not established, by way of any cogent evidence, that the remaining extent of 528 square feet of land is in his exclusive possession along with his other family members, or that the plaintiff mosque was never in possession of the same.



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17. On the other hand, the evidence adduced on the side of the plaintiff mosque clearly indicates that the extent of 528 square feet of land was also under the control of the mosque, along with the other properties as described earlier. In view of the above, the Tribunal was justified in recording a finding that permanent injunction ought to be granted based on the possession held by the plaintiff mosque. This Court does not find any illegality or perversity in the findings recorded by the Tribunal. Therefore, the order impugned in the revision does not warrant any interference by this Court. If at all the 1st defendant and his family members intend to assert any independent right over the land measuring 528 square feet, it is open to them to institute an appropriate suit for declaration and recovery of possession in accordance with law.

18. In view of the above discussion, the revision petition, being devoid of merits, is liable to be dismissed.

In the result, the revision petition is dismissed. No costs. Consequently, connected CMP is closed.

Index : yes / no
Neutral Citation : yes / no

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To
1. The Tamil Nadu Waqf Tribunal, Chennai.



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N.SATHISH KUMAR.J.,

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