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W.P.No.16977 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.16977 of 2024

and

W.M.P.Nos.18700, 18701 & 18073 of 2024

K.Madhusudhanan

...Petitioner

Vs.

1. The Sub Registrar,
O/o. The Sub Registrar, Dharapuram
Tiruppur District.
2. The Tamil Nadu Waqf Board,
Rep.by Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Nagar, Chennai – 600 001.
3. The Waqf Properties Secure & Monitoring Committee
Tamil Nadu and Puducherry,
Rep. by its District Incharge
Alhah M.S.Mohammed Ali Jinna
2/53, Old Agraharam Street, Alangiyam
Dharapuram Taluk, Tiruppur District – 638 657



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4. Mr.Mohammed Iqbal

Secretary, Poorveega Sulthania Masjid Committee,

WEB COP (GS No.131) Alangium, Dharapuram Taluk,

Tiruppur District.

(R.-4 impleaded as per order passed by this Court in

W.M.P.No.22147 of 2024 of this WP dt. 10.01.2025.

...Respondents

Prayer :-

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records relating to the impugned order passed by the first respondent in his proceedings No.208/2024 dated 16.05.2024 and to quash the same and consequently, to direct the first respondent to register the settlement deed presented by the petitioner on 26.07.2022 in Temporary No.TP/127342650/2022 and return back the Settlement Deed to the petitioner.

For Petitioner : Mr.Vijay Narayan
Senior Counsel for
Mr.C.Prakasam

For Respondent-1 : Mr.L.S.M.Hasan Fizal
Additional Government Pleade

r

For Respondent-2 : Mr.S.Haja Mohideen Gisthi

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For Respondent-3 : Mr.H.Mohammed Ghouse

For Respondent-4 : Mr.S.Selvathirumugan

Order

The challenge in this Writ Petition is to the order passed by the first respondent vide proceedings dated 16.05.2024 and to quash the same and consequently, to direct the first respondent to register the settlement deed presented by the petitioner on 26.07.2022 in favour of his wife and return back the Settlement Deed to the petitioner.

2. I have abbreviated the facts of the case by restricting it only to the relevant details:-

i) The Settlement Tahsildar, Coimbatore, vide order dated 15.11.1973, declared that one Lazum Huq, S/o Kazhi S.Sahul, is entitled to



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the grant of ryotwari patta, in respect of a property, comprised in S.No.407, measuring an extent of 36.42 acres of wet land situated at Alingiyam, Village, Dharapuram Taluk, The said order passed by the Settlement Tahsildar was challenged by the fourth respondent by way of an Appeal before the Tamil Nadu Minor Inams Tribunal, Coimbatore (Principal Sub Judge) in C.M.A.No.4 of 1987. The said Appeal was dismissed on the aspect of limitation. No challenge was made as against the said dismissal. Subsequently, the aforesaid property was conveyed by A.S.Bajlul in favour of S.S.Abdul Salam, by way of a sale deed dated 30.03.1985.

ii) Thereafter, a suit in O.S.No.69 of 1988 was filed by the respondent-Wakf Board before the Sub Court, Dharapuram, for declaration of title and recovery of possession of the property in S.No.401 and vide judgment and decree dated 08.11.1990, the suit was dismissed. Subsequently, on 23.06.1984, a sale deed was executed by S.S.Abdul Salam, conveying the entire extent of property in S.No.401 in favour of one Kanchanamala. In the meantime, an Appeal was preferred by the second respondent-Wakf Board as against the judgment passed in the Original Suit, in A.S.No.476 of 1994 and this Court vide judgement and decree dated 03.07.2002, dismissed the Appeal for default.



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iii) Subsequently, on 17.06.2021, the said Kanchanamala out of the larger extent of 36.42 ares of land in R.S.No.182/1 (Old S.No.401) executed a) sale deed in favour of R.Sabapathy and S.Santhamani, conveying an extent of 18.46 acres, b) another portion of land, measuring an extent of 7.1 acres was conveyed in favour of K.Madhusudhanan (petitioner herein) by executing sale deed on the same date, c) remaining portion of land measuring to an extent of 4.7 acres of land was conveyed by the said Kanchamala in favour of R.Sabapathy, K.Madhusudhanan, N.Kathiresan and R.Vanitha by executing sale deed on the same date (17.06.2021). After such purchase, all the purchasers earmarked the pathway in the said land to enable the purchasers to utilize the land and all of them jointly laid down the pathway to the extent of 1.46 acres.

iv) Thereafter, on 17.02.2022, that the said R.Sabapathy and S.Santhamani executed a sale deed in favour of the petitioner conveying an extent of 50 cents out of 18.46 acres in New R.S.No.182/1A1. Later on, i.e. on 26.07.2022, the petitioner intended to settle the property in favour of his wife and presented a settlement deed for registration. But, the first respondent vide a Refusal Check Slip dated 26.07.2022 refused to register



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the settlement deed by citing the reason that the second respondent-Waqf Board by virtue a communication dated 21.02.2022 instructed the first respondent not to register any document in respect of property comprised in S.No.401 by stating that property as 'Waqf Property'.

v) Challenging such refusal, the petitioner filed a Writ Petition before this Court in W.P.No.23261 of 2022 (first Writ Petition) and this Court, vide order dated 30.08.2022, set aside the Refusal Check Slip issued by the first respondent and remanded the matter back to the first respondent and directed him to issue notice to all the persons, including the petitioner to appear for enquiry fixing a date and hear all the parties on the fixed date and thereafter, to pass orders within 12 weeks.

vi) Pursuant to the said order passed by this Court dated 30.08.2022, an enquiry was conducted after due notice to the parties concerned and the first respondent vide order dated 23.11.2022 directed the petitioner to obtain NOC from the second respondent-Waqf Board, against which, the petitioner filed another Writ Petition in W.P.No.9357 of 2023 (second Writ Petition) and this Court vide order dated 19.03.2024, directed the first respondent to issue fresh notice to all the interested parties and conduct enquiry and to pass



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orders within eight weeks from the date of receipt of a copy of this order As per the direction issued in first Writ Petition dated 30.08.2022. Under these circumstances, the impugned order is passed by the first respondent refusing to register the settlement deed vide order dated 16.05.2024.

vii) Challenging the said order dated 16.05.2024 passed by the first respondent, the present Writ Petition is filed.

3. Mr.Vijay Narayan, the learned Senior Counsel for the petitioner would submit that in terms of Section 5 (2) of the Waqf Act, 1954, the State Government, on receipt of report from the Survey Commissioner of Waqf, shall forward a copy of the said report to the Waqf Board; that the Board after examination of such report, shall send it back to the Government for publication in the Official Gazette, mentioning the details of list of waqfs, as per sub-section (3) of Section 4 of the Wakf Act, viz., i) Name of Wakf, ii)



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Name of the Village, iii) Nature and objects of Wakf, iv) Gross income of

the properties in the Wakf, v) Accounts of land revenue, cess, taxes payable

in respect of properties and vi) Expenses incurred in realization of the

income and other remuneration of the muthavalli of the wakf; that the

learned Senior Counsel also referred to the usual format prescribed for

publication of list of wakf properties in the Official Gazette, wherein, the

particulars (as described above) used to be mentioned in six columns; that in

the present case, though in the Gazette publication dated 03.06.1959, details

of list of wakf properties were mentioned in six columns, as per the

prescribed format, but, the exact details, which are necessary for identifying

the ownership of the property, viz., survey number and to what extent, the

Wakf-Board owes its title were not mentioned and only name of the village,

viz., Alingiam is mentioned.

3.1 Therefore, it is the contention of the learned Senior Counsel for



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the petitioner that whenever the respondent-Waqf Board published list of

Waqfs in the gazatte notification, the same should contain the details of survey number and extent, which is mandatory in terms of sub-section 3 of Section 4 of the Act; that if the list of wakfs does not contain such particulars (viz., survey number and extent), the same would not be construed by any Court of law as list of wakfs as mandated under Section 5 (2) of the Wakf Act, 1954 and statutory recognition provided under Section 22-A of the Registration Act would not extended to the Wakf Board and any person can claim right over the property, and in terms of Section 6 (1) of the said Act, any dispute arises with regard to the right/title over the wakf property, the Wakq Board has to institute a suit within a period of one year from the date of publication of the list of wakfs.

3.2 The learned Senior Counsel for the petitioner further submitted



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of wakfs containing the particulars such as extent, survey number, once such details are mentioned in the gazatte notification, proving their ownership of the property, automatically, statutory protection is granted to them in terms of Section 22-A of the Registration Act and no other person can claim right over the property, unless and otherwise, such persons establishes their title through the Civil Court, but in the absence of any particulars with regard to the survey number and extent of the property, any third party can claim right over the property and the Wafk Board has to establish their title before this Civil Court and that, in the present case, the burden shifts on the Waqf Board to establish their title, since, the petitioner's vendor's vendor, enjoyed the property for almost 60 years over.

3.4 The learned Senior Counsel for the petitioner further submitted that, looking at from any perspective, the respondent-Wakf Board cannot have right over the subject property, inasmuch as, the issue with regard the



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right/title/ over the subject property had already attained finality, as the order passed by the Settlement Tahsildar dated 15.11.1973, granting ryotwari patta in respect of the property in S.No.401 in favour of Lazum Huq, S/o Kazhi S.Sahul was challenged by the fourth respondent in C.M.A.No.4 of 1987 and the same was dismissed; subsequently, a suit was filed by the respondent-Waqf Board before the Sub Court, Dharapuram, in O.S.No.69 of 1988, for declaration of title and recovery of possession of the property in S.No.401 and the Trial Court vide judgment and decree dated 08.11.1990 dismissed the suit holding that the said property exclusively belong to A.S.Bajlul Huq; that though as against the judgment, Appeal was preferred by the respondent-Waqf Board, in A.S.No.476 of 1994, the same was also dismissed vide judgement and decree dated 03.07.2002 and there was no further Appeal as against the said judgement.

3.5 Finally, it is contended by the learned Senior Counsel for the



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petitioner that the Wakf Board is not entitled to the benefit of statutory bar

provided under Section 22-A of the Registration Act,1908, as in the list of wakfs published in the Official gazette dated 03.06.1959, the survey number and extent of the property were not mentioned, and hence, the Registering Authority shall proceed to register the document presented by the petitioner dated 26.07.2022 without any hesitation and prays for appropriate orders to be passed in that regard. The learned Senior Counsel also relied on a recent decision of the Hon'ble Supreme Court, in the case of **K.Gopi Vs. Sub Register** reported in **(2025) S.C.C. Online SC 740**, wherein, the powers conferred on the Registering Authority for registration of document under Section 22-A of the Registration (Tamil Nadu Amendment) Act 2008 is enumerated.

4. Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader for the first respondent, Registering Authority would submit that since the



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second respondent-Waqf Board by virtue a communication dated 21.02.2022

instructed the first respondent not to register any document in respect of property comprised in S.No.401 by stating that the said property as 'Waqf Property', the first respondent has refused to register the settlement deed presented by the petitioner dated 26.07.2022; that aggrieved by such refusal, though the petitioner has approached this Court twice, whereby, the first respondent was directed to pass orders after issuing to all the interested parties concerned and conducting enquiry, the first respondent, in compliance of the orders passed in the Wit Petition conducted enquiry by issuing notice to the parties concerned; that during such enquiry, since the first respondent received objection from the Masjid Committee vide letter dated 13.04.2022 so also a letter of objection dated 04.05.2022 from the third respondent, Waqf Properties Secure & Monitoring Committee, the first respondent refused to register the settlement deed presented by the petitioner and passed the impugned order dated 16.05.2024 and therefore, submitted



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that if at all, the petitioner claims right over the subject property, certainly,

he has to be relegated to approach the Civil Court to establish his right/title over the property in the manner known to law.

5. Mr.S.Haja Mohideen Gisthi, learned counsel for the second respondent-Wakf Board produced Proforma report and other Inam Register maintained by the Wakf Board before this Court and perused his submission by stating that in terms of sub-section 3 of Section 4 of the Wakf Act, the Survey Commissioner of Wakf Board made enquiries and submitted a report to the Government, which was examined by the Board and forwarded it to the Government for publication in the Official Gazette; that, accordingly, as per Section 5 (2) of the Wakf Act, the list of wakfs were published in the Official Gazette Notification dated 03.06.1959, containing the particulars, as mentioned in sub-section 3 of Section 4 of the Act; that as regards the contention of the learned Senior Counsel for the petitioner that



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only village name was mentioned in the list of wafks, but not the survey number and extent of the property is concerned, the learned counsel drawn the attention of this Court to the gazette notification dated 03.06.1959, annexed at page No.16 of the Type-set of papers and submits that, in page No.17 of the said notification, the details of survey number, extent of the subject property were mentioned in the respective columns at fifth and sixth rows and therefore, submits that statutory bar under Section 22-A of the Registration Act would apply to the Wakf Board.

5.1 Further, the learned counsel referred to the Proforma Report and submits that the subject property belongs to Alingiam Town Kazi Service Inam Wakf through T.D.No.1425 dated 16.04.1863 and notified as wakf bearing G.S.No.132/CB3 and hence, no person can claim title over the same without the approval of the Tamil Nadu Wakf Board that though the petitioner's vendor's vendor has traced right over the property on the strength



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of the order passed by the Settlement Tahsildar dated 15.11.1973, wherein, it

is declared that one Lazum Huq, S/o Kazhi S.Sahul, was entitled to the grant

of ryotwari patta, in respect of subject property, comprised in S.No.407,

situated at Alingiyam, Village, Dharapuram, the said order of Settlement

Tahsildar, Coimbatore dated 15.11.1973 was passed as against the Section 21

of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari)

Act; that, in terms of said Section 21, service holder is entitled to hold

service inam property and ryotwari patta, if the service holder continued to

do the service and if he fails to render such service, the right to hold the land

shall cease and the Wakf Board is entitled to hold the land as it's absolute

property, and in the present case, when the service holder does not fulfill the

condition to hold the land, entire property reverted to the Wakf Board and

the character of the property cannot be changed and that once the property

having been found as wakf, it would always retain its character as a wakf. In

support of his contention, the learned counsel placed reliance on a decision



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rendered by the Hon'ble Supreme Court in the case of **Sayed Ali Vs.A.P.**

Wakf Board, reported in (1998) S.C.C. 642.

5.2 Further, it is contended by the learned counsel for the second respondent-Waif Board that since one A.S.Bajlul Huq, son of later Kazi Haji Sagul Hameed sold extent of the subject property in favour of S.S.Abdul Saleem, a suit in O.S.No.69 of 1988 was filed by the respondent-Waqf Board before the Sub Court, Dharapuram/Trial Court for declaration of title and recovery of possession of the property in S.No.401, however, the Trial Court based on the order of the Settlement Tahsildar dated 15.11.1973, dismissed the suit vide judgment and decree dated 08.11.1990; that though as against the judgment passed in the Original Suit dated 08.11.1990, First Appeal was filed by the respondent-Waqf Board, this Court vide judgement and decree dated 03.07.2002, dismissed the Appeal for default, on account of non-payment of batta, which was purely due to collusion of the Wakf Board with



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the petitioner.

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5.3 Finally, the learned counsel for the second respondent-Wakf Board finally summed up his arguments by stating that as per Section 5 (2) of the Wakf Act, the list of wakfs were published in the Official Gazette Notification dated 03.06.1959, containing the particulars, as mentioned in sub-section 3 of Section 4 of the Act, in respective columns at fifth and sixth rows ; that further, as per the Proforma Report of this Wakf, the property belongs to Alingium Town Kazi Service Inam Wakf, and that, once the property is surveyed and notified as wakf, no person can claim title over the same without the approval of the Tamil Nadu Wakf Board. Therefore, it is contended that the statutory protection under the Wakf Act is provided to the Wakf Board to claim right over the property and therefore, prays for dismissal of the Writ Petition.



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5.4 In support of his case, the learned counsel referred to two

reported judgments of the Hon'ble Supreme Court and two unreported judgements of this Court and one unreported decision of the High Court of Judicature for Rajasthan, Jodhpur, the details of which are as follows:-

"a) Sudha Ravi Kumar and Another Vs. The Special Commissioner and others reported in (2017) SCC Online Mad 19191;

b) Rashid Wali Beg Vs. Farid Pindari and others reported in (2022) 4 SCC 414;

c) V.Govindharaji and others Vs. the District Collector and others rendered by this Court in W.P.No.13718 of 2023 dated 20.06.2023;

d) Mrs.K.Annapooshanam Vs. the Inspector General of Registration and others. rendered by this Court in W.P.No.8457 of 2023 dated 05.07.2023.

and

e) Shakur Shah Vs. Eliyas and others rendered in S.B.Civil Revision Petition No.189 of



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2023, dated 20.02.2023."

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6. However, the learned Senior Counsel for the petitioner has raised objection by contending that the details of survey number and extent of the property, referred to by the second respondent-Wakf Board at Page No.17 of the Official gazette Notification published on 03.06.1959, in fifth and sixth rows under respective columns were handwritten and were interpolated by the Wakf-Board to suit their own purpose, and in the Original gazette notification, dated 03.06.1959, there were no such details with regard to the survey number and extent of the property, and therefore, submits that the document annexed at Page No.16 of the Typed-set of papers filed in support of the Implead Petition filed by the fourth respondent is a tampered and need not be relied on.

7. Mr.S.Selvathirumugan, learned counsel for the fourth respondent while adopting the arguments putforth by the learned counsel for the second

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respondent-Wakf Board, would submit that in terms of Section 6 of the Act,

if any disputes arises with regard to the title of the property mentioned in the list of wakfs, either the Wakf Board or any person interested in such property, has to be relegated to the Civil Court to agitate the issue of ownership over the property and the decision of the Civil Court in respect of such matter would be final and therefore, prays for appropriate orders in that regard.

8. I have consciously heard the arguments advanced by Mr.Vijay Narayan, the learned Senior Counsel for the petitioner, Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader for first respondent/Registering Authority, Mr.S.Haja Mohideen Gisthi, learned counsel for second respondent-Wakf Board, Mr.H.Mohammed Ghouse, learned counsel for the third respondent-Wakf Committee and Mr.S.Selvathirumugan, learned counsel for the fourth respondent and



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perused the materials available on record.

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9. When the matter is taken up for hearing, initially, a contention has been raised by all the learned counsel appearing for the parties that this Court, while sitting under Article 226 of the Constitution is conferred with only limited power to deal on the aspect of Wakf Board's entitlement over the Wakf Properties, since, Wakf Tribunal is the primary forum for deciding such disputes, and only in exceptional circumstances, where, the fundamental rights are violated or gross injustice occurs, the High Court can, either 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 and scrutinize the same, even in such case, if the dispute is required to be adjudicated, the High Court can interfere only to the extent of proving the title, where, the title has already been decided, for the purpose of satisfying itself, as to the correctness, legality or propriety of such



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determination and may confirm, reverse or modify such determination or pass such order, as it may think fit and also cited Authorities in support of the said contention.

10. At this stage, it is apposite to refer Section 22-A of the Registration (Tamil Nadu Amendment) Act, 2008, which is extracted as under:-

“ 22-A. Refusal to register certain documents:-

Notwithstanding anything contained in this Act, the registering officer shall refuse to register any of the following documents, namely:—

- (i)...
- (ii) ...
- (iii) ...
- (iv) of Wakfs which are under the superintendence of the Tamil Nadu Wakf Board established under the Wakf Act, 1995, unless a sanction in this regard issued by the competent authority as provided under the relevant Act



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or in the absence of any such authority, an authority so authorised by the State Government for this purpose, is produced before the registering officer; (2) instrument relating to the transfer of ownership of lands converted as house sites without the permission for development of such land from planning authority concerned: Provided that the house sites without such permission may be registered if it is shown that the same house site has been previously registered as house site."

11. Thus, a reading of Section 22-A, clause iv) makes it clear that, in respect of properties, which are under the superintendence of the Tamil Nadu Wakf Board, a sanction is required from the competent authority to be produced before the Registering Authority. Admittedly, in the present case, no sanction was accorded and only objection was raised from the Wakf Board for registration of the subject property vide letter dated 22.01.2022 instructing the first respondent not to register any document in respect of property comprised in S.No.401 by stating that property as 'Waqf Property'.



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12. Further, this Court, being obvious of the fact that the issue has attained finality by virtue of the judgment passed by the Civil Court, and further considering the fact that this case has a checkered history, as, the petitioner has approached this Court twice feeling aggrieved over the refusal on the part of the first respondent, Registering Authority to register the settlement deed presented by the petitioner; that during the first round of litigation, in W.P.No.23261 of 2022, the refusal was made on the basis of objection of Wakf-Board letter dated 22.01.2022 and this Court vide order dated 30.08.2022, set aside the order impugned therein and remanded the matter to the first respondent for re-consideration and ii) during the second round of litigation, viz., in W.P.No.9357 of 2023, since the petitioner was directed by the first respondent to obtain NOC from Wakf-Board for registration and this Court vide order dated 19.03.2024, directed the first respondent to consider the issue after hearing all the interest parties, and



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despite the fact that this Court vide orders dated 30.08.2022 and 19.03.2024, passed in such respective Writ Petitions directed the first respondent to conduct enquiry by issuing notice to the parties concerned and thereafter, to pass orders by fixing specific time frame; that the first respondent passed a similar order dated 16.05.2024, thereby, refusing to register the document presented by the petitioner, and this time, such refusal is made on the letters received from the fourth respondent-Masjid Committee vide letter dated 13.04.2022 so also a letter of objection dated 04.05.2022 from the third respondent, Waqf Properties Secure & Monitoring Committee, which constrained the petitioner to approach this Court for the third time, is inclined to venture into the aspect of declaration of title over the subject property, as the petitioner has not been mete with justice so far and knocked the doors of this Court for the third time.

13. The issue that falls for consideration in this Writ Petition as to



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whether the petitioner is entitled to seek for registration of the property, comprised in S.No.401, measuring 50 cents out of 18.46 acres situated at Dharapuram Taluk, Alingiam Village, in favour of his wife or not.

14. To answer the said issue, firstly, it has to be seen as to whether the property in dispute, viz., the property, comprised in S.No.401, measuring a extent of 50 cents out of total extent of 36.42 acres situated at Dharapuram Taluk, Alingiam Village, falls under the category of Wakf, as claimed by the second respondent-Wakf Board or belongs to the petitioner by virtue of a sale deed executed in his favour by R.Sabapathy and S.Santhamani, registered as Document No.1711 of 2022. However, this Court before proceeding to decide the said issue, is of the view that it would be apposite to refer to the definition of the term, "Wakf" described in Section 3 (l) of Muslim Wakf Act, 1954, Section 5(2) and 6 (1) and proviso therein, as, a reading of the said provisions, would succour this Court to arrive at a fine



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conclusion, and the said provisions are as follows:-

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Section 3 (1) "Wakf" means the permanent dedication by a person professing Islam [or any other person] of any movable or immovable property for any purpose recognized by the Muslim law as pious, religious or charitable and includes -

(i) a wakf by user; [but such wakf shall not cease to be a wakf by reason only of the user having ceased irrespective of the period of such cesser]

(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

and "Wakif" means any person making such dedication.

[Provided that in the case of a dedication by a person not professing Islam, the Wakf shall be void if, on the death of such person, any obligation to such dedication is raised by one or more of his legal representatives]

(1a) "Wakf Commissioner" means the Wakf Commissioner appointed under sub-section (1) of



Section 21]

(m) "Wakf Deed" means any deed or instrument by which a wakf has been created and includes any valid subsequent deed or instrument by which any of the terms of the original dedication have been varied."

Section 5 (2)

"The Board shall examine the report forwarded to it under sub-section (1) and publish, in the Official Gazette, a list of wakfs 2*[existing in the State, or as the case may be, the part of the State, whether in existence at the commencement of this Act or coming into existence thereafter) to which the report relates, and] containing such particulars as may be prescribed."

and

Section 6 (1) :-

If any question arises (whether a particular property specified as wakf property in a list of wakfs published under sub-section 2 of section 5 is wakf property or not whether a wakf specified in such list is a shia wakf or sunni wakf] the board or the muthawalli of the wakf or any person interested therein may institute a suit in a civil court of competent



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jurisdiction for the decision of the question and the decision of the civil court in respect of such matter shall be final;

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."

15. Thus, a conjoint reading of Section 3(1), 5 (2) and 6 (1) and proviso thereto, makes it clear that, any property, either movable or immovable, that has been dedicated by a person professing Islam (or any other person, as the case may be) for the purpose recognized by the Muslim law as pious, religious or charitable, such property is called as "Wakf Property" and in terms of Section 5(2) certainly, there is an obligation on the part of the Wakf Board to publish list of movable and immovable properties, containing the particulars such as extent, survey number, once such details are mentioned in the Gazatte notification, no third party right would be created over the property and that, as per section 6 (2) any dispute arises

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with regard to the title of the wakf property, either the Board or the interested person has to institute a suit before the civil court and judgment of the civil court is final, provided such a suit has to be instituted within a period of one year from the date of publication of the gazatte.

16. It is the contention of the learned Senior Counsel for the petitioner that, in terms of sub-section 3 of Section 4 of the Wakf Act, 1954, the Survey Commissioner of Wakf Board has to make enquiries and submit a report to the Government, which shall forward the same to the Board for examination and after such examination, the Wakf Board has to forward the said report to the Government for publication in the Official Gazette containing the particulars, as mentioned in sub-section 3 of Section 4 of the Act. The learned Senior Counsel also referred to the format prescribed for publication of list of wakf properties in the Official Gazette under the six columns, which is as under:



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Supplement TO PART II

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THE FORT ST. GEORGE GAZETTE

No. 22-A] MADRAS, WEDNESDAY, JUNE 3, 1959 (JYAISTHA 13, 1891)

NOTIFICATIONS BY HEADS OF DEPARTMENTS, ETC.

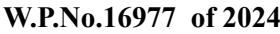
GENERAL NOTIFICATIONS.

LIST OF WAKIS EXISTING IN MADRAS STATE

In exercise of the powers conferred by sub-section (2) of Section 4 of the Muslims Wakfs Act, 1959, (Central Act, XXIX of 1954), the Board of Wakfs hereby publishes the list of wakfs existing in the district of Coimbatore.

Name of Wakfs	Name of the Village	Nature and object of the wakf	Gross income of the properties in the Wakf and muthavalli of the wakf	Accounts of land revenue, cess, taxes payable in respect of wakf properties	Expenses incurred in realization of the income and other remuneration of the
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17. In the present case, as per Section 5 (2) of the Wakf Act, the list of wakfs were published in the Official Gazette Notification dated



bearing the headings, viz., i) Name of Wakf, ii) Name of the Village, iii)

Nature and objects of Wakf iv) Gross income of the properties in the Wakf and v) Accounts of land revenue, cess, taxes payable in respect of properties and vi) Expenses incurred in realization of the income and other remuneration of the muthavalli of the wakf.

18. However, the learned Senior Counsel pointed out that though list of wakfs published in the Official Gazatte contains the particulars, as described above in the tabular column, but, the exact details, which are necessary for identifying the ownership of the property, viz., survey number and to what extent, the Wakf-Board owes its title were conspicuously missing and only the name of the village, viz., Alingiam is mentioned. Thus, in the absence of any particulars with regard to the survey number and actual extent of the property, and merely mentioning the name of the Village is not



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the list of wakfs.

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20. Thus, from the details of list of wakfs published in the Gazette notification dated 03.06.1959, no one can arrive at a conclusion that the subject property belongs to Wakf Board as survey number and extent of the property were conspicuously missing.

21. In fact, this Court, in an identical issue, viz., in W.P.No.29599 of 2025, wherein, the dispute with regard to the property mentioned in list of Wakfs published in the Gazatte Notification dated 11.02.1959 arose for consideration, held as follows:-

"Once, the details of property, such as extent, survey number and name of the Village are declared in the Official Gazette, the statutory protection under the Wakf Act is provided to the Wakf Board to claim right over the property and the bar under Section 22-A of the Registration Act, 1908 would apply to the Wakf Board, and in the event of failure on the part of the Board to provide in the list of Wakfs, extent, survey number



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and village etc., details in the Gazette publication, the statutory protection under the said Act will not be enured to the Wakf Board to claim right over the property and the bar under Section 22-A of the Registration Act would not apply and it is for the Wakf Board to establish their right over the property by approaching Civil Court and agitate the issue in the manner known to law."

22. Thus, in present case, the burden shifts on the Waqf Board to establish their title, since, the petitioner's vendor's vendor, enjoyed the property for almost 60 years of time. Further, in Section 5 of the Wakf Act 1995, sub-section 3 was inserted with an object to mutate the land records by taking into consideration of the list of wakfs published in the Official Gazatte; that in the event of no such details (viz., survey number and extent of the properties) are mentioned in the list of waks, it is highly impossible for the Revenue Authorities to mutate the revenue records.

23. Though the learned counsel for the second respondent-Wakf



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Board has drawn the attention of this Court to the Gazette Notification

issued by the Government dated 03.06.1959, which is annexed at Page

No.16 of the Typed Set of Papers filed in support of the Implead Petition

filed by the fourth respondent, more particularly, at page No.17, and states

that the details of Village name, survey number and extent were mentioned

in the fifth and sixth rows, by highlighting the same in green colour, as

rightly pointed out by the learned Senior Counsel for the petitioner, the

details mentioned in the fifth and sixth rows were interpolated by the

respondent-Wakf Board to suit their own purpose, as, the same were

handwritten and the said document is a tampered one and cannot be relied

on, since, in the Original gazette notification, dated 03.06.1959, and in the

format, there were no such details, as that was referred to by the learned

counsel for the second respondent-Wakf Board at page No.17 of the gazatte

notification dated 03.06.1959. Thus, it could be easily inferred that the

Gazatte Notification produced on the side of the respondent-Wakf Board so



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as to prove that the details of survey number of the property and extent were

mentioned were concocted documents and cannot be relied on.

24. Similarly, the Proforma Report relied on by the second respondent-Wakf Board so as to state that the subject property belongs to Alingiam Town Kazi Service Inam Wakf and notified as wakf, is also of no avail to the respondent-Wakf Board, in the absence of particulars with regard to survey number and extent of the property, in the official gazatte. Likewise, the reliance placed by the second respondent-Wakf Board on a decision rendered by the Hon'ble Supreme Court in the case of **Sayeed Ali Vs.A.P. Wakf Board**, reported in (1998) S.C.C. 642, in support of contention, that, once the property is a wakf, always a wakfs, character of the property cannot be changed and grant of patta in favour of Lazam Huq by the Settlement Tahsildar under Section 11 of the Tamil Nadu Minor Inams (Abolition and Conversion into Ryotwari) does not, in any manner, nullify



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the earlier dedication made of the property constituting the same as wakf; that after a wakf has been created, it continued to be so for all the time to come and further continues to be governed by the provisions of the Wakf Act and a grant of patta in favour of Lazam Huq does not affect the original character of the wakf property, is also not applicable to the facts of the present case.

25. Though Section 22-A (iv) of the Registration (Tamil Nadu Amendment) Act, 2008, restrains the Registering Authority from registering any document as mentioned in clause iv) viz., Wakf property unless and until, a sanction is accorded from the competent Authority, (Wakf Board in this case) the question of provision of statutory recognition for Wakf property would come into picture only when the details of property such as survey and extent are clearly mentioned in the list of wakfs published in the official gazette notification, in the absence of the same, the statutory bar



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under Section 22-A would not apply to the Wakf Board, and if at all, the

Wakf Board claims right over the subject property, certainly, they have to be relegated to approach the Civil Court to establish their right/title over the property in the manner known to law, till then, the bar under Section 22-A will not apply.

26. Further, as rightly pointed out by the learned Senior Counsel for the petitioner, looking at things from any perspective, the respondent-Wakf Board cannot have right over the subject property, inasmuch as, the issue with regard to the right/title over the subject property had already attained finality, as the order passed by the Settlement Tahsildar dated 15.11.1973, granting ryotwari patta in respect of the property in S.No.401 in favour of Lazum Huq, S/o Kazhi S.Sahul was challenged by the fourth respondent in C.M.A.No.4 of 1987 and the same was dismissed; subsequently, a suit was filed by the respondent-Waqf Board before the Sub



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Court, Dharapuram, in O.S.No.69 of 1988, for declaration of title and

recovery of possession of the property in S.No.401 and the Trial Court vide

judgment and decree dated 08.11.1990 dismissed the suit holding that the

said property exclusively belong to A.S.Bajlul Huq; that though as against

the judgment, Appeal was preferred by the respondent-Waqf Board, in

A.S.No.476 of 1994, the same was also dismissed vide judgement and

decree dated 03.07.2002 and there was no further Appeal as against the said

judgement. Though it is the contention of the learned counsel for the

second respondent-Wakf Board that collusion between the Wakf Board with

the petitioner has culminated in such dismissal, admittedly, no further

Appeal was preferred by the Wakf Board. Further, the fourth respondent

also not challenged the dismissal of the Appeal in C.M.A.No.4 of 1987,

whereby, the order passed by the Settlement Tahsildar dated 15.11.1973 was

confirmed.



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27. Therefore, it is clear that the Wakf Board is not entitled to the benefit of statutory bar provided under Section 22-A of the Registration Act, 1908 and the Registering Authority is not prevented from proceeding further to register the document presented by the petitioner dated 26.07.2022. Therefore, the contentions of the learned counsel for the second respondent-Wakf Board have to be brushed aside as the same does merit consideration. Similarly, the decision relied on by the learned counsel by him also cannot be applied to the facts of the case on hand.

28. Thus, this Court, at the risk of repetition states that though the second respondent-Wakf Board claims right over the properties, since, no particulars such as survey number and extent of the property were mentioned and mere mention of the name of the Village alone is not sufficient to trace title over the property, as, list of Wakfs means list of properties mentioning the exact details such as extent and survey number. If the list of wakfs does



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not contain such vital particulars, (i.e survey number and extent) the same

would not be construed by any Court of law as list of wakfs and if any third party right would be created over such property and the right course available to the Wakf Board is to approach the Civil Court to establish their rights.

29. So far as the present case is concerned, the issue with regard to the Wakf Board's entitlement over the subject property has already attained finality by virtue of the order passed by the Trial Court in a suit for declaration of title and recovery of possession and the first Appeal preferred against the said Trial Court's judgment was also dismissed, and there was no further Appeal as against the judgment passed by the First Appellate Court and that once, it is held by the Civil Court that the Wakf-Board is not entitled to any right over the subject property, the Wakf Board can have no claim over the subject property, and if any such suit is to be instituted by the Wakf



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Board at this distance point of time, the same would not only be barred by limitation but also by res judicata, as the petitioner's vendor's vendor title over the property has already been decided by the Civil Court.

30. Accordingly, this Court is inclined to pass/issue the following order/direction:-

i) The impugned order passed by the first respondent dated 16.05.2024 is set aside.

ii) Consequently, the first respondent is directed to register the settlement deed dated 26.07.2022 within two days from the date of representation of the same by the petitioner and return back the Settlement Deed to the petitioner.

31. In the result, the Writ Petition is allowed on the aforesaid terms.



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No costs. Consequently, connected Miscellaneous Petitions, viz.,

W.M.P.Nos.18700 of 2024 is ordered and W.M.PNos. 18701 & 18073 of 2024 are closed.

21.11.2025

sd

Index : yes/no

Neutral Citation : yes/no

To

1. The Sub Registrar,
O/o. The Sub Registrar, Dharapuram
Tiruppur District.

2. The Tamil Nadu Waqf Board,
Rep.by Chief Executive Officer,
No.1, Jaffer Syrang Street,

46/49



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Vallal Seethakathi Nagar, Chennai – 600 001.

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3. The Waqf Properties Secure & Monitoring Committee

Tamil Nadu and Puducherry,

Rep. by its District Incharge

Alhah M.S.Mohammed Ali Jinna

2/53, Old Agraharam Street, Alangiyam

Dharapuram Taluk, Tiruppur District – 638 657.

4. Mr.Mohammed Iqbal

Secretary, Poorveega Sulthania Masjid Committee,

(GS No.131) Alangium, Dharapuram Taluk,

Tiruppur District.



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Krishnan Ramasamy,J.,

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21.11.2025