



W.P.No.29632 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

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Mr.Sulthan Basha

...Petitioner

Vs.

1. The District Registrar,
O/o. District Registrar,
Ranipettai District.
2. The Sub-Registrar,
O/o.The Sub-Registrar Office,
Kaveripakkam, Ranipettai District.
3. The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1, Jaffor Sirang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.
4. The Tahsildar,
O/o. Nemili Taluk Office,
Ranipettai District.

...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 on the file of the second respondent to quash the impugned refusal slip dated 11.07.2025 in RFL/Kaveripakkam/37/2025 and consequently, to



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direct the second respondent to register the sale deed dated 11.07.2025 in TP/218425266/2025 within a time fixed by this Court.

For Petitioner : Mr.K.Seetharam
For Respondents, 1,2 & 4 : Mr.P.Harish
Government Advocate
For Respondent-3 : Mr.T.Sai Krishnan
Standing Counsel for Wakf Board

Order

The challenge in this Writ Petition is to the refusal slip issued by the second respondent dated 11.07.2025 and to quash the same, and consequently, to direct the second respondent to register the sale deed dated 11.07.2025 within a time frame fixed by this Court.

2. Learned counsel for the petitioner would submit that the petitioner, being the absolute owner of the property comprised in Old Survey No.1119/A1 and New Survey No.1119/1A3 situated at Kaveripakkam Town Panchayat intended to sell a portion of his property in favour of some third party and presented a sale deed dated 11.07.2025, for the purpose of registration, however, the second respondent by virtue of the impugned



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Refusal Check Slip refused to register the sale deed citing the reason that all the properties in Survey Number 1119/2 belongs to the third respondent, Tamil Nadu Wakf Board and and challenging the said refusal, the present Writ Petition is filed.

2.1 Learned counsel for the petitioner would further submit that petitioner's vendor, viz., S.Kannan inherited the subject property through his family Partition Deed dated 20.03.1975, and the said Kannan also obtained patta in respect of the subject property from the Revenue Department; that but, since the property neighbouring to Kannan's property in S.No.1119/2 is owned by the third respondent-Wakf Board, the said Vendor of the petitioner wrote letters to the respondent-Wakf Board dated 03.10.2022 and 21.10.2022, and got clarified the issue vide reply from the third respondent-Wakf Board dated 03.11.2022 that the property in S.No.1119/1 does not belong to the third respondent-Wakf Board and it is a private property; that it is only thereafter, the petitioner has purchased the said property vide a sale deed dated 06.12.2022. Therefore, it is contended that the third respondent-Wakf Board vide its reply dated 03.11.2022 made it clear via. its Proforma



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Report that only a portion in S.No.1119, i.e. S.No.1119/2 belongs to the third respondent-Wakf Board, however, the second respondent vide the impugned refusal held that the all the properties situated in Kaveripattiam Village belongs to the Wakf, and therefore, prays for setting aside the impugned refusal check slip dated 11.07.2025.

3. The learned Government Advocate for respondents 1, 2 and 4 would submit that in the record maintained by the respondents Office, the subject property is mentioned as "Wakf Property" and therefore, the petitioner has been directed to obtain No Objection Certificate from the third respondent-Wakf Board and that if at all, the petitioner claims to have right over the subject property, the petitioner has to approach the Civil Court and establish his title over the property in the manner known to law.

4. So far as the learned Standing Counsel for the third respondent-Wakf Board is concerned, he produced a Gazette Notification dated 11.02.1959, published in terms of Section 5 (2) of the Muslims Wakf Act, 1954, wherein, the details of Wakfs existing in the Madras State were



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mentioned and made his submissions that the properties situated in Kaveripakkam Village mentioned in Sl.Nos.8, 15 and 16 of the said notification falls under the category of Wakf properties. However, when this Court pointed out that the subject property, viz. the property bearing New S.No.1119/1A3, has no relevance to the property mentioned in Sl.No.15, (as the Survey number mentioned in Sl.No.15 bears the number, "1119/2, he fairly admitted that the petitioner's property bearing New S.No.1119/1A3 does not fall under the category of Wakf Property, and S.No.1119/2 alone belongs to Wakf, viz., Mohammed Sheriff Thakya Tope, but then, submitted that the properties mentioned in Sl.Nos.8 and 16 falls under the category of Wakf property and therefore, he prays for appropriate orders.

5. Heard the learned counsel for the petitioner and the learned Government Advocate for respondents 1, 2 and 4 and the learned Standing Counsel for third respondent-Wakf Board and perused the materials placed on record.

6. The petitioner claims to be the owner of the property in New



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S.No.1119/1A3 situated at Kaveripakkam Town Panchayat and is intended to sell a portion of the same in favour of some third party. Accordingly, the petitioner presented a sale deed dated 11.07.2025 for registration. However, the second respondent vide Refusal Check Slip dated 11.07.2025 refused to register the same by citing the reason that all the properties situated in Kaveripakkam Village belongs to the Wakf Board and insisted the petitioner to obtain NOC from the third respondent-Wakf Board. Challenging such Refusal dated 11.07.2025, the present Writ Petition is filed.

7. Therefore, it has to be seen as to whether the petitioner's property, bearing New S.No.1119/1A3 falls under the category of Wakf or not. 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, which is as follows:-

3 (l) "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



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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]

(la) "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."

8. Thus, a reading of the definition of the term, "Wakf" (referred to



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supra) means to say 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".

9. Reverting to the facts of case on hand, as noticed above, it is the claim of the petitioner that the property in New S.No.1119/1A3 situated in Kaveripakkam Village belongs to him.

10. Per contra, it is the contention of the learned Standing Counsel for the third respondent that the properties situated in Kaveripakkam Village belongs to Wakf Board.

11. Therefore, this Court in order to ascertain as to whether, the petitioner's property falls under the category of "Wakf", orally directed the learned Standing Counsel to produce a Gazette notification issued in terms of the Muslim Act, as per which, they claim right over the subject property.

12. Accordingly, the learned Standing Counsel for the third



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respondent-Wakf Board produced a Gazette Notification issued in terms of sub-section 2 of Section 5 of the Muslim Wakf Act, 1954 dated 11.02.1959 wherein, the details of Wakfs existing in the State of Madras were mentioned.

13. On a careful perusal of the said notification, it is clearly seen that the property, mentioned at Sl.No.15, bearing S.No.1119/2 belongs to Wakf, viz., Mohammed Sheriff Thakya Tope, whereas, the properties mentioned at Sl.Nos.8 and 16 have no relevance to the survey number of the petitioner's property. In this context, it would be appropriate to refer to the properties mentioned in S.Nos.8, 15 and 16 of the Gazatee Notification dated 11.02.1959, which are as follows:-

- i) **Sl.No.8** :- Fort Mosque Burial Ground in Kaveripakkam Village S.No.1278,0-10. Mosque puromboke of Kaveripakkam Village.
- ii) **Sl.No.15:-** Md.Sheriff Takya Tope in S.No.Kaveripakkam 1119/2 of Kaveripakkam Village and P.O..
- iii) **Sl.No.16** :- Mohamadiya Madrasa Nazarali Takya burial ground of Kaveripakkam of Kondapuram Village



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WEB COPY 14. A perusal of the above description of properties, it is seen that even though the properties mentioned at Sl.Nos.8 and 15, references were made to the survey number, actual extent of the properties was not mentioned, therefore, in such case, the Court can construe the entire extent of the properties mentioned in Sl.Nos.8 and 15 belongs to Wakf Board. However, so far as the properties mentioned at Sl.No.16 is concerned, survey number was not mentioned.

15. Further, a reading of the Section 3 (l) of the Wakf Act (referred to above) makes it clear that the term, "Wakf" means a permanent dedication of movable or immovable property by a person professing Islam [or any other person] for certain obligations under the Muslim law, viz. for the purpose such as pious, religious or charitable.

16. Pausing here for a moment, this Court feels that it is also relevant to extract the provisions of Section 5 (2) of the Wakf Act, 1954, which is as



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follows:-

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"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."

17. Thus, a conjoint reading of Section 3(1) and 5 (2) makes it clear that, when a person comes forward to dedicate his property either movable or immovable for certain purposes recognized under the Muslim Law, 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 Gazette notification, proving their ownership of the property, automatically, statutory protection is granted to them and no other person can claim right over the property, unless and otherwise, such persons established their title through the Civil Court.



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18. As already noticed above, the term, "Wakf" means dedication of properties, either movable or immovable property by a person to carry-out certain obligations under the Muslim law. 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, the extent, survey number 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.

19. In the present case, so far as the properties mentioned in Sl.Nos.8 and 15 are concerned, there were references to the survey number of the properties, and hence, the third respondent-Wakf Board can claim right over



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the same, and if any third party claims right over such properties, obviously, they have to approach the Civil Court so as to establish their right/title over the property, and in such case, the Court can presume that such property belongs to Wakf Board, until the production of proof of title by the third parties to the claim, if any, in the form of judgment and decree obtained from the Civil Court.

20. As far as the property mentioned in Sl.No.16 is concerned, the name of the Village alone was mentioned in the Official Gazette Notification, but the details, such as extent, survey number were missing, which means that list of wakf properties have not been disclosed, in such case, any other third party can claim right over such properties, and hence, bar under Section 22-A would not come to the rescue of the Wakf Board, so as to claim right over the property, in which case, the benefit of statutory protection provided under the Wakf Act cannot be extended to the Wakf Board and the Wakf Board has to establish their right over the property by approaching the Civil Court, and agitate the issue in the manner known to law.



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21. So far as the property mentioned in Sl.No.15 is concerned, the same belongs to the third respondent-Wakf Board and admittedly, the petitioner's claim over the property bearing New S.No.1119/1A3 is in no way connected to the property mentioned in Sl.No.15, bearing S.No.1119/2, and therefore, the second respondent cannot be refrained from proceeding with the registration of the sale deed presented by the petitioner and the bar under Section 22-A of the Registration Act would not apply to the petitioner's case.

22. Thus, this Court, at the risk of repetition states that so far as the properties mentioned in Sl.No.16 is concerned, though the third 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, as, list of Wakfs means list of properties. Therefore, the properties details should have been mentioned, particularly, survey number and extent of property. If it is not mentioned, the same would not be construed by the Court as list of wakfs as mandated under Section 5 (2) of the Wakf Act, 1954. In the present case, since no such details were furnished in the list of wakfs, particularly, survey number and



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extent of property, the remedy available to the Wakf Board is to approach the Civil Court and seek protection in the form of a judgment and decree in their favour and it is only after, they proving their right/title/interest over the properties, they are entitled to seek for the benefit available under Section 22-A of the Registration Act, i.e towards non-registration of such properties before the Sub Registrar. In the interregnum, bar under Section 22-A of the Registration Act would cease to operate, as far as the property in Sl.No.16 is concerned.

23. As far as the property mentioned in Sl.No.8 is concerned, the survey number is mentioned as "1278". Therefore, the protection available under Section 22-A would apply to the Wakf Board. If any third party claims right over such property, he/she has to approach the Civil Court to establish their title. Till then, the registration of the said survey number is not permitted. In the event, if the Wakf Board is approaching the Civil Court to establish their rights/title over such property by way of filing a suit pendency of such suit will not be a bar for registration of the property, unless and otherwise, any specific interim order is obtained.



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24. Therefore, unless and otherwise, the Wakf Board clearly mentions the details of properties in the Gazette notification published in terms of Section 5 (2) of the Wakf Act, such as extent, survey number and the Village name, bar under Section 22-A of the Registration Act will not apply to them, and the Sub-Registrar shall proceed with the registration, and the Wakf Board has to approach the Civil Court to establish their right over the property and obtain a judgment and decree in their favour.

25. Therefore, the contention of the learned Standing Counsel for the third respondent-Wakf Board that the properties mentioned in Sl.Nos.8 and 16 also belongs to Wakf Board, as they are appurtenant to the petitioner's property, and it is going to be treated as Wakf's properties is untenable and it is upto the third respondent-Wakf Board to establish their right over the property in the event it is found that such properties are connected to the petitioner's property and seek for statutory protection.

26. Thus, as long as the property belonging to the petitioner's bearing



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New S.No.1119/1A3 has not been mentioned in the Gazatte Notification in SL.Nos.8, 15 and 16, the third respondent-Wakf Board cannot claim independent right/title/interest over the properties in Kaveripakkam Village, and the onus is on the Tamil Nadu Wakf Board to make a suitable claim before the Civil Court and establish their right over the subject properties.

27. In the light of the above findings, this Court is inclined to pass the following orders:-

i) The impugned refusal check slip issued by the second respondent dated 11.07.2025 is set aside.

ii) Consequently, the second respondent is directed to register the sale deed as and when the same is re-presented for registration forthwith without any further delay.

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

No costs.



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Index : yes/no

Neutral Citation : yes/no

To

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Krishnan Ramasamy,J.,

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