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CRP.No.4200 of 2025 and C.M.P.No.21573 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

CRP.No.4200 of 2025

and

C.M.P.No.21573 of 2025

K.P.John

... Petitioner/Petitioner/
1st Defendant

Versus

1. President,
Sholavanthan Nainar Tholugai
Pallivasal Jamath Committee,
Sholavanthan Village,
Vadipatti Taluk, Madurai District.

2. Secretary,
Sholavanthan Nainar Tholugai Pallivasal
Jamath Committee, Sholavanthan Village,
Vadipatti Taluk, Madurai District.

... Respondents 1 & 2 /

Respondents 1 & 2 / Plaintiffs 1 & 2

3. Tamil Nadu Waqf Board,
represented by its Chief Executive Officer,
D.No.1 Vallal Sethakathi Nagar
Jaffar Srammal Street, Chennai - 600 001.

... Respondents 1 & 2 /

Respondents 1 & 2 / Plaintiffs 1 & 2

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Exparte order and fair order passed in I.A.No.44 of 2025 in O.S.No.4 of 2024 dated 05.08.2025 on the file of the Wakf Tribunal, Chennai and allow this Civil Revision Petition.



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For Petitioner : Mr.M.Venkatesan

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ORDER

Unsuccessful first defendant has filed the present Civil Revision Petition.

2. The suit was filed by Sholavanthan Nainar Tholugai Pallivasal Jamath Committee, represented by its President and Secretary as against the Revision Petitioner / first defendant / Mr.K.P.John and the second defendant / The Tamil Nadu Waqf Board, represented its Chief Executive Officer. The defendants have filed their written statement and the necessary issues were also framed. While on the side of the plaintiff one Shahul Hameed has filed proof affidavit along with documents. When the case was posted for marking document, the aforesaid proof affidavit has been recorded as PW1 chief and the case was posted for marking of documents. At this stage, the Revision Petitioner / First defendant has filed an application in I.A.No.44 of 2025 in O.S.No.4 of 2024 under Order XIII Rule 3 and Section 151 of the Code of Civil Procedure to reject and not to mark the documents 1 to 9 set out in the proof affidavit filed on behalf of the plaintiffs. The plaintiffs have also filed



their counter affidavit in the aforesaid I.A.No.44 of 2025 in O.S.No.4 of 2024.

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3. Upon considering the arguments advanced on either side, the Court below has dismissed the I.A.No.44 of 2025 in O.S.No.4 of 2024 on 05.08.2025 on the ground that no prejudice is going to be caused if the proposed documents 1 to 9 enlisted in the proof affidavit of PW1 are marked and the revision petitioner / first defendant has got the right to cross examine PW1 with regard to the proof, admissibility and relevancy of the same. Further, the revision petitioner / first defendant has not put forth any acceptable grounds to invoke the discretionary powers provided under Order XIII Rule 3 or Section 151 of the CPC by the Tribunal, which is deemed to be a Civil Court under Section 83(5) of the Waqf Act, 1995 (as amended in 2013), so as to reject the proposed documents 1 to 9 enlisted in the proof affidavit of the PW1 at this stage. Aggrieved over the same, the present Civil Revision Petition has been instituted.

4. The learned counsel appearing for the revision petitioner would submit that the Waqf Tribunal ought to have seen that the revision petitioner



has raised several objections for admissibility of document and for marking the documents 1 to 9 in the suit and the same has to be decided the merits.

Whereas the Waqf Tribunal simply held that the admissibility of the documents can be decided at the end of the suit which is not in accordance with law. The learned counsel further submits that the objections with regard to the proposed documents as Ex.A2 the Government of Madras Official Gazette publication dated 27.05.1959. Ex.A3 Proforma Report of the Waqf Board dated 07.02.1980 and Ex.A3 and A9 are one and the same with regard to Proforma Report of the Waqf Board dated 31.11.1955. Those documents were already declared as null and void by the competent Civil Court in O.S.No.283 of 1968 and in O.S.No.272 of 1968 on the file of the District Munsif Court, Thirumangalam but the Wakf Tribunal in an erroneous approach and against the law, dismissed the revision petitioner's application.

5. To strength his contention, the learned counsel appearing for the revision petitioner relied upon the judgments of this Court reported in **2006 (5) CTC 681 Duraisami Naidu and others Vs.C.Ramakrishnan and others** and another judgment **2014 (5) CTC 118 Udhayakumar @ Kumar Vs.**



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G.Kishore Kumar, and submitted that if the documents are placed without any authenticity, the court has power to reject the same as irrelevant or inadmissible documents at any stage of the proceedings. Yet another Judgment of Hon'ble Andhra Pradesh High Court reported in ***AIR 1957 AP 60 Nori Srirama Sastri vs. Nori Lakshmiddevamma and others*** and the judgment of Full bench of Hon'ble Bombay High Court ***reported in 2008 (5) CTC 577 Hemendra Rasiklal Ghia, etc. vs. Subodh Mody, etc.*** were also relied on to show that the objections does not dispute admissibility of document in evidence but is directed towards mode of proof alleging it to be irregular and insufficient.

6. It is seen from the records, the revision petitioner / first defendant has filed an affidavit wherein it has been stated that the document Nos.3 and 9 are one and the same documents and the said documents have already been declared as null and void by the competent Civil Court in two suits in O.S.No.283 of 1968 and O.S.No.272 of 1968 and the same has been confirmed by the first appellate Court also while so, those documents are not legally admissible in evidence.



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7. It is seen from the records that the suit has been filed seeking the relief of declaration to declare that the suit property measuring 11 cents situated in Cholavanthan Village, old survey No.89, new survey no.733/2 belongs to the respondents / plaintiffs – Waqf Board and for recovery of the possession same from the revision petitioner/first defendant. The case was taken on file on 16.03.2012 by the Waqf Tribunal, Principal Sub Court, Madurai and numbered as WOP.No.2 of 2012. After the constitution of the Waqf Tribunal it was transferred to the Waqf Tribunal, Chennai at the stage of enquiry and the same was re-numbered as O.A.No.169 of 2018 on 29.02.2018. When the case was pending before the Waqf Tribunal, Principal Sub Court, Madurai, the revision petitioner / first defendant filed an application in I.A.289 of 2015 under order VII Rule 11 of CPC for rejection of WOP.No.2 of 2012, which was dismissed on 16.09.2018. As against the said dismissal order, the revision petitioner/first defendant preferred CRP (MD) No. 49 of 2019 before the Madurai Bench of the Madras High Court, which was also dismissed.

8. It is seen from the records that in the aforesaid case in OS.No.4 of 2024 issues were framed on 09.02.2024. In the proof of affidavit filed by the



PW1, there are 9 documents proposed to be marked and the same have been set out in the list appended to the proof affidavit. While so, the revision petitioner / first defendant has filed an application under order XIII Rule 3 and Section 151 of the Code of Civil Procedure to reject and not to mark the documents 1, 2, 3 and 9 set out in the proof affidavit filed on behalf of the plaintiffs.

9. At this juncture it is relevant to cite the provisions under order XIII Rule 3 of the Code of Civil Procedure which reads as follows:-

“3. Rejection of irrelevant or inadmissible documents:-

The Court may at any stage of the suit reject any document which is considers irrelevant or otherwise inadmissible, recording the grounds of such rejection.”

10. At this juncture it is also relevant to cite the judgment of the Hon’ble Supreme Court of India, reported in **(2003) AIR SC 4558 R.V.E.Venkatachala Gounder vs. Arulmigu Viswesaraswami & V.P.Temple**, wherein it has been held that the difference between objections of admissibility of the documents and objection of mode of proof or the objections as to maintainability of the document in the evidence may be



clarified into two classes.

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- (i) An objection that the documents, which is ought to be proof, is itself inadmissible in evidence.
- (ii) Where the objection does not dispute the admissibility of the documents in evidence but directed towards the mode of proof alleging the same to be irregular or insufficient.

11. It is also relevant to cite the judgment of the Supreme Court reported in *AIR 1966 SC 1457 The Roman Catholic Mission vs. State of Madras and another*, wherein it has been held that a document inadmissible in evidence though brought on record has to be excluded from consideration. Keeping in mind the ratio laid down by the Hon'ble Supreme Court with regard to proof of admissibility and relevancy of the documents, Revision petitioner can raise his objections very well before the Waqf Tribunal, while marking the documents, such objections if any made in a manner known to law, the same can be recorded with specific objections each and every documents. Thereafter, the objections shall be considered in a manner known to law, while passing final order / judgment.



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12. In view of the above, there is no reason to interfere in the order passed in I.A.No.44 of 2025 in O.S.No.4 of 2024 dated 05.08.2025 on the file of the Waqf Tribunal, Chennai.

13. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected civil miscellaneous petition is closed. No costs.

04.09.2025

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Index : Yes/No

Speaking order : Yes/No

Neutral Case Citation : Yes/No

Note: Issue order copy on 10.09.2025

To

1. The Wakf Tribunal, Chennai.
2. President,
Sholavanthan Nainar Tholugai
Pallivasal Jamath Committee,
Sholavanthan Village,
Vadipatti Taluk, Madurai District.
3. Secretary,

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Sholavanthan Nainar Tholugai Pallivasal
Jamath Committee, Sholavanthan Village,
Vadipatti Taluk, Madurai District.

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4. Tamil Nadu Waqf Board,
represented by its Chief Executive Officer,
D.No.1 Vallal Sethakathi Nagar
Jaffar Srammal Street, Chennai - 600 001.

M. JOTHIRAMAN, J.

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