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W.P.No.31662 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2025

Coram

The Honourable **Mr.Justice Krishnan Ramasamy**

W.P.No.31662 of 2025

S.Saravanakumar

...Petitioner

Vs.

1. The Sub Registrar (I/C)
Registration Department,
Thuckkanaickenpalayam,
Gobichettipalayam Taluk,
Erode District.

2. The Chief Executive Officer,
Tamil Nadu Wakf Board,
Office of the Zonal Superintendent of Auquaf
No.963, Mettupalayam Road,
Near Flower Market,
Coimbatore – 641 002.

..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 the entire records relating to the impugned order passed by the first respondent in proceedings in Na.Ka.No.34/2025 dated 15.04.2025 and to quash the same and consequently, to direct the first respondent to receive the sale deed papers and register the same.

For Petitioner Mr.C.Prakasam

For Respondent-1 : Mr.Abishek Murthy

Government Advocate

For Respondent-2 : Mr.Avinash Wadhwani



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Order

The challenge in this Writ Petition is to the order passed by the first respondent, dated 15.04.2025, whereby, the sale deed presented by the petitioner was refused to be entertained and the petitioner was directed to obtain NOC from the Tamil Nadu Wakf Board.

2. Facts of the case, in gist and kernel are as follows:-

i) The property comprised in Old S.No.67, in R.S.No.280/1, measuring an extent of 0.96 acres situated at Arakkankottaikarai Village, Gobichettipalayam Taluk, Erode District was owned by one S.N.Abdul Subakhan Sahib; that the said S.N.Abdul Subakhan Sahib sold the land in favour of Karuppa Gounder, through a registered sale deed dated 01.05.1941 to an extent of 24 $\frac{3}{4}$ cents; that, the said Karuppa Gounder also purchased a property from the same survey number, an extent of 3.22 $\frac{3}{4}$ acres from one Muthusamy Gounder, through a sale deed dated 09.08.1943 and other extent of 24 $\frac{3}{4}$ cents from Bab John Sahib through registered sale deed dated 04.09.1944, that the wife of Karuppa Gounder by name Karuppakal also purchased another piece of land in the same survey no.67 to an extent of 24 $\frac{3}{4}$ cents from Kabeer Sahib, through a registered sale deed dated 16.02.1947, and the entire extent of 3.96 acres were owned by the said

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Karuppa Gounder and his wife Karuppakka and were in possession and enjoyment of the same.

ii) After the demise of Karuppa Gounder, the legal heirs of the deceased Karuppa Gounder partitioned the above said land through a registered Partition Deed dated 13.06.1958. As per the said partition deed, the said Karuppakal having share to an extent of 99 cents as life interest, and after her demise, her daughter Chellammal became owner and she obtained ryotwari patta and on 12.06.2002 she executed a sale deed in favour of one Chinnasamy, through a registered sale deed.

iii) Thereafter, petitioner purchased the subject land, measuring to an extent of 96 cents from the said A.R.Chinnasamy, vide a registered sale deed in document No.2090 of 2020 dated 26.11.2020 and mutation of revenue records were also done. The petitioner, due to urgent requirement of money, decided to sell the subject property in favour of one Kannammal and presented a sale document dated 03.02.2025 for registration. The first respondent vide order dated 15.04.2025, directed the petitioner to obtain No Objection Certificate (NOC) from the Wakf Board and aggrieved by the said order, the present Writ Petition is filed.

3. It is the contention of the learned counsel for the petitioner that the petitioner, being the absolute owner of the subject property is intended to sell a portion of his property in favour of one Kannammal and presented a



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sale deed dated 03.02.2025 for the purpose of registration, however, the first respondent by virtue of the impugned order refused to register the sale deed citing the reason that objection has been raised by the second respondent-Wakf Board stating that the subject property belongs to the Tamil Nadu Wakf Board and hence, the petitioner has to obtain NOC from the second respondent-Wakf Board, aggrieved by such refusal, the petitioner has filed the present Writ Petition.

3.1 Learned counsel would further submit that the petitioner's predecessors-in-title owned the land situated comprised in old S.No.67, R.S.No.280/1, situated at Arakkankottaikarai Village, Gobichettipalayam Taluk, Erode District from the year 1941 onwards; that in fact part of the land situated in same survey number was purchased through the Court auction by Muthusamy Gounder in E.P.R.No.233/1939 in O.S.No.415 of 1935 and the entire records also mutated in the purchaser's name and was in possession and enjoyment of the same on the basis of the sale certificate.

3.2 The learned counsel for the petitioner, therefore, contended that from the year 1941, the property comprised in Old S.No.67 transferred from



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one hand to other hand by virtue of four sale deeds, the details are as follows; i) Sale deed dated 01.05.1941 (from S.N.Abdul Subakhan Sahib to Karuppa Gounder), ii) Sale deed dated 09.08.1943 (Muthusamy Gounder to Karuppa Gounder) iii) Sale deed dated 04.09.1944 (Bab John Sahib to Karuppa Gounder) and iv) Sale deed dated 16.02.1947 (Kabeer Shabib to Karupakkal) which were also registered in the Office of the first respondent and even during such point of time, there was no objection from the second respondent and it is only when the petitioner intended to sell the subject property, such an objection is raised by the second respondent-Wakf Board, when they have no vested right over the said property, much less, any semblance of title over the subject property in view of the fact that the petitioner's predecessors-in-title have owned the subject property right from 1941 onward; that, therefore, the second respondent-Wakf Board has no locus standi to raise such objection, that too, after a lapse of 84 years, but, the first respondent without considering all these aspects has refused to register the document presented by the petitioner, without even conducting any enquiry.



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3.3 Further, it is contended by the learned counsel that certainly, there is an obligation on the part of the Wakf Board to publish list 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 predecessors-in-title owned the property from 1941 onwards and thereafter, the right/title over the property got transferred to various persons, to various extent by virtue of four sale deeds (as mentioned above). Thus, by averring so, the learned counsel prays for setting aside the impugned order and to issue appropriate directions.

4. Mr.Abishek Murthy, learned Government Advocate for the first respondent, Registering Authority would submit that since the second

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respondent-Waqf Board by virtue a communication dated 12.02.2022

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instructed the first respondent not to register any document in respect of property comprised in S.No.67, by stating that the said property as 'Waqf Property' belonging to Periakodiveri Mosque, the first respondent refused to register the sale deed presented by the petitioner dated 03.02.2025.

4.1 However, the learned Government Advocate would fairly submit that since such refusal is made without even conducting an enquiry, the respondent-Registering Authority has intended to issue notice of enquiry to both the petitioner as well as the Commissioner of Wakf Board and based on the outcome of such enquiry, appropriate decision would be taken and such statement was in fact recorded by this Court when the Writ Petition was taken up for hearing on 01.09.2025, pursuant to which, both the rival parties were put on notice and enquired, whereby, the first respondent has arrived at a conclusion that the dispute appears to be civil in nature and hence, the parties have been instructed to approach the Civil Court to establish their right over the properties and learned Government Advocate also produced copy of such proceedings, bearing Na.Ka.No.142 of 2025 dated 03.10.2025, and therefore, seeks for appropriate orders.

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5. So far as the learned Standing Counsel for the second respondent-Wakf Board is concerned, he produced a Gazette Notification dated 03.06.1959, published in terms of Section 5 (2) of the Muslims' Wakf Act, 1954, wherein, the details of Wakfs existing in the Madras State were mentioned and made his submissions that the properties comprised in S.No.67, measuring an extent of 3.96 acres, situated in Arakankottaikarai Village, Gobichettipalayam Taluk, falls under the category of Wakf properties, as the same belongs to Periakodivari Village Mosque.

5.1 Further, the learned counsel also drawn the attention of this Court to page No.4 of the Particulars of Wakfs, bearing Ref.No.272/1955, wherein, the survey number of the subject property, its extent and name were also mentioned, stating that the subject property in Arakankottaikarai Village of Gobichettipalayam Taluk, S.No.67 wet 3.96 acres, Taram Rs.45.9.0 (cess Rs.14.4 Surcharge Rs.5.11, quit rent Nill value almost Rs.7000/- -0-0. Income about Rs.15-0-- per annum was granted by Kartar, King of Mysore for the support of the mosque in this Village. Therefore, it is submitted that, once the property is surveyed and notified as wakf, it always remains to be

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the Wakf, and hence, no person can claim title over the same, without the approval of the Tamil Nadu Wakf Board, and in terms of Section 22-A of the Registration Act, 1908 statutory protection is provided to the Wakf Board to seek for non-registration of such property by any other third party, and therefore, prays for dismissal of the Writ Petition. The learned counsel also relied on the decision of the Hon'ble Supreme Court in the case of **Madanuri Sri Rama Chandra Murthy Vs. Syed Jalal** reported in (2017) 13 SCC 174.

6. Heard Mr.C.Prakasam, the learned counsel for the petitioner, Mr.Abishek Murthy, the learned Government Advocate for respondent No. 1 and Mr.Avinash Wadhwani, the learned counsel for second respondent-Wakf Board and perused the materials placed on record.

7. The issue that falls for consideration in this Writ Petition as to whether the petitioner is entitled to seek for registration of the sale deed in respect of the subject property in favour of one Kannammal or not?



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8. To answer the said issue, firstly, it has to be seen as to whether the property in dispute, viz., the property, comprised in Old S.No.67, measuring an extent of 96 acres situated at Arankkankottaikarai Village, Gobichettipalayam Taluk, 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 A.R.Chinnasamy. . 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" as described in Section 3 (1) of Muslim Wakf Act, 1954, and also 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 conclusion, and the said provisions are as follows:-

I) 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,



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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."

II) Section 5 (2)

5. Publication of list of 4[auqaf].—

(1) On receipt of a report under sub-section (3) of section 4, the State Government shall forward a copy of the same to the Board. 4

(2) The Board shall examine the report forwarded to it under sub-section (1) and 5 [forwarded it back to the Government within a period of six months for publication in the Official Gazette] a list of Sunni [auqaf] or Shia 4[auqaf] in the State, whether in existence at the commencement of this Act or coming into existence thereafter, to which the report relates, and containing such other particulars as may be



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prescribed.

6 [(3) The revenue authorities shall—

(i) include the list of auqaf referred to in sub-section

(2), while updating the land records; and (ii) take into consideration the list of auqaf referred to in sub-section (2), while deciding mutation in the land records.

(4) The State Government shall maintain a record of the lists published under sub-section (2) from time to time.]

and

III) 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 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."

9. Thus, a conjoint reading of Sections 3(1), 5 (2) and 6 (1) and proviso thereto, makes it clear that, any property, either movable or



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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 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 in the official gazatte.

10. Further, 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 13/23



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4 of the Act. It is also beneficial to refer to the different columns as mentioned in the publication of list of wakf properties in the Official Gazette under the six columns, which are as under:

Supplement TO PART II

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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11. A perusal of the list of wakfs would make it clear that it contains no specific column providing details with regard to the extent of land and



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survey numbers, which are ultimately necessary to substantiate their title over the property. Based on the said details only, the objections, if any, will be made in terms of Section 6 (1) of the Wakf Board Act, 1954. In fact, this Court has come across very many cases, where, list of wakf properties published in the gazatte contains the details of survey number and extent of the properties in the same column. However, in the present case, no such particulars are available. When such being the case, certainly, the legal protection available under Section 22 A of the Registration Act, 1908, will not be extended to recognize the subject property as 'Wakf Property' by shifting the burden of proof against the petitioner-claimant so as to make him to prove the title to the subject property, in the manner known to law.

12. Thus, in the absence of any such particulars with regard to the subject property, and merely mentioning the name of the Village or name of the Mosque is not sufficient for the Wakf Board to establish its legal title/right over the property, as there is an obligation on the part of the Wakf Board to publish list of wakfs containing the particulars such as extent, survey number, once such details are mentioned in the gazatte notification, automatically, statutory protection under Section 22-A is granted to them and

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no other person can claim right over the property, unless and otherwise, such persons establishes their title through the Civil Court, whereas, in the absence of such particulars with regard to the subject property, any third party, who claims right over the property by virtue of his/her land standing possession of title deeds, patta, etc., and in such case, the Wakf Board has to establish their title/right over the property . Further, in terms of Section 6 of the Wakf Act, 1954, if any dispute arises with regard to the title of the Wakf Property, the objector has to institute a suit within a period of one year from the date of publication of the list of wakfs.

13. 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,



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and in the event of failure on the part of the Board to provide in the list of Wakfs, 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."

14. Thus, in the present case, 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. Though, according to the learned counsel for the second respondent that, at Sl.No.243, the details of property were mentioned, (i.e. in the 17th row, which is highlighted in Orange colour) since the survey number and extent of the property were conspicuously missing, burden shifts on the Waqf Board to establish their title. Further, the petitioner's predecessors-in-title owned the property from 1941 and thereafter, the said property got transferred from one person to other persons in respect of various extent of property by virtue of four sale deeds dated 01.05.1941, 09.08.1943, 17/23



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04.09.1944 and 16.02.1947 (more fully described in the preceding para of this order, viz., para No.3.2).

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15. So far as the reliance placed by the learned counsel for the second respondent-Wakf Board to the Particulars of Wakfs, bearing Ref.No.272/1955, particularly, Page No.4 in support of his contention that the survey number of the subject property, its extent and name of the Village and Mosque were also mentioned is concerned, (viz, the details that the subject property is a Inam granted by Hindu King” in Arakankottaikarai Village of Gobichettipalayam Taluk S.No.67 wet 3.96 acres, etc., for the support of the mosque in this Village) as already stated supra, in the absence of particulars with regard to survey number and extent of the property, in the official gazette, the reliance placed by the learned counsel for the second respondent-Wakf Board in the Inam Register, where, the details of the subject property were mentioned, cannot be relied on, as the same could be tampered one. Likewise, the reliance placed by the second respondent-Wakf Board on a decision rendered by the Hon'ble Supreme Court in the case of **Madanuri Sri Rama Chandra Murthy Vs. Syed Jalal** reported in (2017) **13 SCC 174**, is also not applicable to the present case.

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16. 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 with survey number and extent of the properties are clearly mentioned in the list of wakfs published in the official gazette notification, in the absence of the same, the statutory bar 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 can 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.

17. Thus, this Court, at the risk of repetition states that though the second respondent-Wakf Board claims right over the properties, since, sufficient particulars were not published in the Gazette Notification dated 19/23



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03.06.1959, due to which, the persons interested in the property unable to institute Civil Suit to establish his/her right in the subject property in terms of sub-section 1 of section 6 of the Wakf Act within one year from the date of publication in the Official Gazatte, and mere mention of the name of the Village alone is not sufficient to establish title over the property and avail statutory protection under the Wakf Act, as, list of Wakfs means list of properties mentioning the exact details of extent and survey number of the properties. If the list of wakfs does 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 to provide statutory protection. In such cases, if any third party right created over any property, in which, if the Wakf Board claims right, the right course available to the Wakf Board is to approach the Civil Court to establish their rights, till then, protection available under Section 22-A will not be available to the Wakf Board under the Registration Act.

18. Though it is seen that the first respondent, in pursuant to the order passed by this Court dated 01.09.2025, had put on notice to both the rival parties and enquired the matter and arrived at a conclusion that the

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dispute appears to be civil in nature and relegated both the parties to approach the Civil Court to establish their right over the properties, vide proceedings dated 03.10.2025, in the light of the aforesaid findings and discussions, this Court is of the view that the first respondent shall proceed with the registration process and need not wait till the Wakf Board established its right over the subject property in the form of a judgment and decree from the Civil Court, since, 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, but, in the interregnum, i.e during pendency of such civil proceeding, bar under Section 22-A of the Registration Act would not come to the rescue of the Wakf-Board.

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

i) The impugned order passed by the first respondent dated 15.04.2025 is set aside.

ii) Consequently, the first respondent is directed to register the sale deed dated 03.02.2025 within two days from the date of re-presentation of the same by the petitioner.

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

No costs.

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Neutral Citation : yes/no

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1. The Sub Registrar (I/C)
Registration Department,
Thuckkanaickenpalayam,
Gobichettipalayam Taluk,
Erode District.
2. The Chief Executive Officer,
Tamil Nadu Wakf Board,
Office of the Zonal Superintendent of Auquaf
No.963, Mettupalayam Road,
Near Flower Market,
Coimbatore – 641 002.

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