



W.P.No.32172 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.04.2025

PRONOUNCED ON : 22.04.2025

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.32172 of 2024
and W.M.P.Nos.34929 & 34930 of 2024

N.Jeyalakshmi

... Petitioner

Vs.

1. The Executive Magistrate/
Sub Collector,
Thrukoilur,
Kallakurichi District.

2. Faiel Mohammed
3. Mohammed Alikhan

4. The Inspector of Police,
Thrukoilur Police Station,
Thrukoilur

5. The Wakf Superintendent,
Wakf Superintendent's office,
No.512, Gandhi Road,
Panruti.

6. The Chief Executive Officer,
Tamil Nadu Waqf Board,
Chennai.



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7. Sheik Mohammed Kasim @ Kalu
(R7 impleaded as per order dated
26.03.2025 in W.M.P.No.9335 of
2025 in W.P.No.32172 of 2024)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records on the file of the first respondent in order dated 14.10.2024 passed under Section 165 of BNSS in A3-816-2023 and quash the same consequently direct the first respondent to restore the possession of the agricultural land in survey No.124/1 and 124/2 total extent of Acre 2.96 cent, T.Keeranur Village, Thirukoilur Taluk, Kallakurichi District to the petitioner.

For Petitioner	: Mr.M.Vijaya Kumar
For Respondents	
For R1 & R4	: Mr.R.Vinothraja Government Advocate (Crl. Side)
For R2 & R3	: Mr.N.A.Nassir Hussain
For R5 & R6	: Mr.M.Mohammed Fayaz Ali
For R7	: Mr.Sheik Mohammed Kasim @ Kalu Respondent-in-person

ORDER

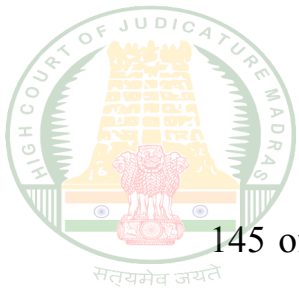
This petition has been filed challenging the order dated 14.10.2024, passed by the first respondent under Section 165 of BNSS, thereby directed the A & B parties to approach the Civil Court to ascertain their right over the property, comprised in Survey No.124/1 and



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124/2 to an extent of 2.96 acres situated at T.Keeranur Village, Thirukoilur Taluk, Kallakurichi District. Till then the subject property was directed to be handed over to the B party to maintain status quo with regards to worship.

2. The case of the petitioner is that her father-in-law and her family members are cultivating tenant in respect of the property in Survey No.124/1 and 124/2 to an extent of 2.96 acres situated at T.Keeranur Village, Thirukoilur Taluk, Kallakurichi District and they are regularly paying lease amount to one Mahaboob Basha. There was a dispute in respect of the subject property alleging that the seventh respondent attempted to trespass into the subject property in the name of Ahala Sunnath Jamath. Therefore, the petitioner's father-in-law filed suit in O.S.No.189 of 1990 on the file of the learned Subordinate Judge, Villupuram and obtained interim injunction as against the said Ahal Sunnath Jamath. However, the said suit was dismissed for default in the year 2004. Once again, the same person attempted to trespass into the subject property and as such, the petitioner's husband lodged complaint before the fourth respondent. On receipt of the said complaint, the fourth respondent referred the same to initiation of proceeding under Section



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145 of Cr.P.C. Thereafter, once again the respondents 2 & 3 along with other persons attempted to trespass into the subject property on 27.02.2023. Therefore, the petitioner preferred a complaint before the fourth respondent. It was referred for initiation of proceeding under Section 145 of Cr.P.C., before the first respondent.

3. In the meanwhile, peace committed was constituted and passed resolution dated 17.03.2023, thereby directed the parties to approach the Civil Court for appropriate relief. Thereafter, the first respondent by an order dated 15.11.2023, directed both the parties to work out their remedy in O.S.No.234 of 2023 on the file of the learned Principal District Judge, Thirukoilur. Till then, both the parties are prevented from entering into the property by handing over the subject property to the fourth respondent custody. While pending the suit, an application was filed to reject the plaint in I.A.No. 699 of 2023 and the same was allowed on the ground that Waqf Tribunal alone can conduct trial and not by the trial Court and accordingly, the suit was rejected in O.S.No.234 of 2023.



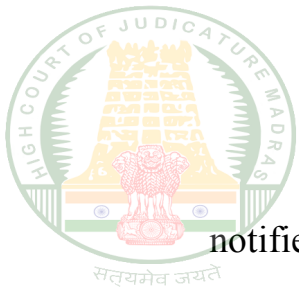
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4. The learned counsel appearing for the petitioner would submit that the family members of the petitioner's father-in-law are in possession and enjoyment of the subject property for the past several decades as cultivating tenants. Now the respondents are attempting to illegally dispossess the petitioner. The first respondent has no power to ascertain the rights of the subject property. Without any reasons, the first respondent directed to hand over the property to the B party to maintain status quo. There is absolutely no law and order issue and there is no breach of peace to pass an order to hand over the possession of the property in favour of the B party.

5. Heard the learned counsel appearing on either side and perused the material placed before this Court.

6. On perusal of the counter affidavit filed by first respondent and on the submissions made by the learned Government Advocate (Crl. Side) appearing for the first respondent, it is revealed that the subject property was granted patta in the name of the Masuthi and all the revenue documents are also issued in the name of the Masuthi. It was surveyed by the Government of Tamil Nadu and Waqf board. After inspection, it was



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notified that the subject property is Government Wakf Land and is published in the official gazette dated 06.05.1959. While being so, the petitioner's father-in-law filed a suit in O.S.No.189 of 1990 and the same was subsequently dismissed.

7. Further, on the earlier occasion, on the complaint lodged by the petitioner, the first respondent has conducted detailed enquiry and has passed order on 10.05.2023. As against the order passed by the first respondent dated 10.05.2023, the petitioner filed writ petition before this Court in W.P.No.15950 of 2023, this Court by an order dated 17.07.2023, set aside the order passed by the first respondent and directed to conduct fresh enquiry and pass orders under Section 145 of Cr.P.C. Accordingly, detailed enquiry was conducted and before passing the final order, the petitioner filed suit in O.S.No.234 of 2023 on the file of the learned Principal District Munsif, Thirukoilur. Hence, the first respondent passed order dated 15.11.2023 that both A and B parties work out their remedy in O.S.No.234 of 2023. Till then, the parties are prevented from entering into the property by handing over the subject property in the custody of receiver viz., the Station House Officer, the fourth respondent herein. Thereafter, the third respondent filed



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application to reject the plaint in I.A.No.699 of 2023 and the same was allowed by an order dated 04.10.2024 thereby the suit in O.S.No.234 of 2023 was rejected.

8. It is also seen that, the subject land was granted as Inam by Navab of Arcot, specifically Mohammed Kasim Sahib and Abdul Rahman Sahib, who were the original inamdars. The subject properties were dedicated to religious and public purpose under the Waqf institutions. Even assuming that the petitioner's father-in-law was a cultivating tenant in the worship property, the tenancy doesn't confer any title or ownership over the property, which was dedicated for the Waqf purposes.

9. Further, the Waqf Act, 1995 along with the Waqf Property Lease Rules, 2014, strictly governs the management and use of these properties. Rule 9(iv) of the Waqf Property Lease Rules stipulates that agricultural lease on Waqf land can only be granted for a maximum period of three years. The provisions of Tamil Nadu Cultivating Tenants Protection Act cannot be extended to or applied to waqf property as per the Waqf Act and Waqf Property Lease Rules. Admittedly the petitioner



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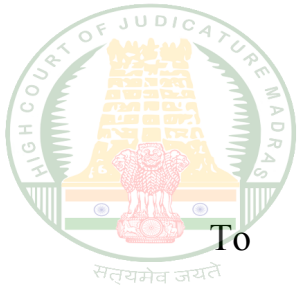
has neither a valid lease agreement nor possess any enforceable documents under law to justify her occupation of the property. Therefore, she can only be termed as encroacher as defined under Section 3 (ee) of the Waqf Act 1995. This Court finds no infirmity or illegality in the order dated 14.10.2024, passed by the first respondent and the writ petition is devoid of merits and liable to be dismissed.

10. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

22.04.2025

Index : Yes/No
Neutral citation : Yes/No
Speaking/non-speaking order

rts



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To

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5. The Public Prosecutor,
Madras High Court,
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