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W.P.No.35635 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2025

CORAM :

The Hon'ble MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.35635 of 2024

M.Mohamed Thaha Maricar

.. Petitioner

-VS-

1. The Tamil Nadu Waqf Board,
Rep. by its Chief Executive Officer,
Jaffer Syrang Street,
Vallal Seethakathi Nagar,
Parrys, Chennai-1.
2. The Sub-Divisional Magistrate and
Sub-Collector, The Office of
Sub-Divisional Magistrate,
Nagapattinam & District.
3. The Commissioner,
Nagapattinam Municipality,
Nagapattinam & District.
4. The Superintendent of Police,
Nagapattinam & District.
5. The Tahsildar,
Nagapattinam Taluk & District.
6. N.Mohamed Sultan Maracair
(R-6 impleaded as per order of
Court dated 11.3.2025 in WMP
No.9532 of 2024 in WP)

.. Respondents



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Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct respondents 1 to 5 jointly and in co-ordination with each other, execute the order passed by the 2nd respondent in Ref.No.R.C.No.1230/2019/B3 dated 07.08.2019 issued under Section 55 of the Waqf Act, 1995 and deliver vacant possession of waqf property to the petitioner with the police assistance, within a time frame as may be fixed by this Court.

For Petitioner : Mr.R.Veeramani

For Respondents : M/s.Swathi Priya
for R-1
: Dr.S.Suriya
Addl. Govt. Pleader for RR 2, 3 & 5
: Dr.C.E.Pratap
Govt. Advocate (Crl. Side) for R-4
: Mr.K.M.Vijayan
Senior Counsel
for M/s.R.T.Shyamala for R-6

* * * * *

ORDER

The prayer in the writ petition is for a mandamus directing respondents 1 to 5 jointly in co-ordination with each other to execute the order passed by the second respondent in R.C.No.1230/2019/B3 dated 07.08.2019 issued under Section 55 of the Waqf Act, 1995.

2. Heard the learned counsel appearing on both sides.



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3. As a matter of fact, Mr.K.M.Vijayan, learned senior counsel appearing on behalf of the newly impleaded respondent would submit that today, the authorities are present in the site and are trying to carry out the directives under the order in the civil revision petition. The learned senior counsel would submit that the Waqf itself is a private Waqf and the Wakf would be put to irreparable loss and injury if the demolition is taken place and possession is taken.

4. I have considered the said submission. It can be seen that the 6th respondent also was the second respondent in the Civil Revision Petition (MD) Nos.296 and 2070 of 2007. It is essential to extract paragraph 21 of the order that was passed on 09.10.2018, which is as under:

"21. In view of the above discussions, the order of the learned Subordinate Judge (Wakf Tribunal), Nagapattinam is without jurisdiction and therefore, is liable to be set aside. In the result, these Civil Revision Petitions are allowed and the order passed by the learned Principal Subordinate Judge (Wakf Tribunal), Nagapattinam in W.O.P.No.1 of 2004 dated 11.11.2005 is set aside. The order of the petitioner Board dated 24.05.2007 is



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confirmed and the respondents 1 to 6 herein are directed to hand over possession of property described in the Commissioner's Report within a period of two months from the date of receipt of a copy of this order failing which the petitioner Board shall immediately thereafter initiate proceedings under Section 55 of the Wakf At. It is needless to state that meanwhile, it is open to the Wakf Board to approach the Commissioner of Municipality, Nagapattinam to take immediate steps to demolish the unauthorized constructions put up on the property. The respondents 1 to 6 shall pay costs to the petitioner. Consequently, connected Miscellaneous Petitions are closed."

5. Therefore, the sixth respondent himself was directed to hand over possession. As a matter of fact, they are in violation of the said order as on date. Not stopping with that, the sixth respondent as also the others had earlier approached this Court by way of W.P.No.28017 of 2019 aggrieved by the consequential proceedings that are carried out in implementing the order in the civil revision petition and by the judgment dated 23.09.2019, the same was also dismissed. In the teeth of the same, the proceedings have been dragged on upto the year 2025. It is the duty of the everyone concerned that the orders passed by the Courts of Law shall be implemented at the earliest.



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Therefore, the writ petition deserves to be allowed.

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6. Accordingly, the writ petition is allowed. No costs.

7. It is stated that the authorities are present at the site to carry out the directives in the civil revision petition. Let the same be carried out. Needless to mention that if the parties want to take away any of their personal belongings which are to be permitted, the same will be permitted by the authorities.

11.03.2025

Neutral Citation: Yes/No

sra

To

1. The Chief Executive Officer,
Tamil Nadu Waqf Board,
Jaffer Syrang Street, Vallal Seethakathi Nagar,
Parrys, Chennai-1.
2. The Sub-Divisional Magistrate and
Sub-Collector, The Office of
Sub-Divisional Magistrate,
Nagapattinam & District.
3. The Commissioner,
Nagapattinam Municipality,
Nagapattinam & District.

D.Bharatha Chakravarthy, J.



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(sra)

4. The Superintendent of Police,
Nagapattinam & District.
5. The Tahsildar,
Nagapattinam Taluk & District.

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