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C.R.P.(PD)No.48 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.01.2025**

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.(PD)No.48 of 2025
and C.M.P.No.376 of 2025

M.Abdul Nazeer

.. Petitioner

Vs

1.A.Ali Akbar
S/o.Abdul Ajis, Managing Trustee,
Mohideen Andavar, Puradhana Dharga and Pallivasal,
Mina Noorudeen Puradhana Dhargah and Pallivasal Wakf,
Therkuvasal, Madurai Dist. - 625 001,
Chinnakadai Street, Therkuvasal, Madurai.

2.The Tamil Nadu Wakf Board
Rep. by its Chief Executive Officer,
No.1 Jaffer Syrang street, Vallal Seethakathi Street, Chennai – 1.

3.The Chief Executive Officer,
Tamil Nadu Wakf Board,
No.1 Jaffer Syrang Street,
Vallal Seethakathi Street, Chennai – 1.

4.The Wakf Superintendent/Executive Officer,
Madurai Wakf Board Officer Circle,
Tamil Nadu Wakf Board, Madurai.

.. Respondents



C.R.P.(PD)No.48 of 2025

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the order dated 13.12.2024 made in C.M.P.No.18 of 2024 in A.A.No.4 of 2024 on the file of the Tamil Nadu Waqf Tribunal.

For Petitioner : Mr.A.Raja Mohamed

For R1 : Mr.Nissar Ahamed, Senior Counsel
for Ms.I.Kowser Nissar

For R2 to R4 : Ms.H.Yasmin Ali

ORDER

This civil revision petition challenges the order passed by the Tamil Nadu Waqf Tribunal in C.M.P.No.18 of 2024 in A.A.No.4 of 2024, dated 13.12.2024.

2. The civil revision petitioner is the petitioner before the Tamil Nadu Waqf Tribunal. A.A.No.4 of 2024 has been presented by the Managing Trustee Mohideen Andavar, Puradhana Dharga and Pallivasal, Mina Noorudeen Puradhana Dhargah and Pallivasal Waqf, Therkuvasal, Madurai. This appeal challenges the order passed by the Tamil Nadu Waqf Board invoking Section 64 of the Waqf Act, 1995. By virtue of the



C.R.P.(PD)No.48 of 2025

order impugned before the Waqf Tribunal, a committee of 20 members were removed from their position as Mutawallis.

3. It is the claim of the civil revision petitioner that he was the one who had initiated the proceedings, which led to the removal of Mutawallis, by way of a complaint dated 06.03.2023. He further points out that as the Waqf Board did not immediately consider his representation, he moved W.P.No.11339 of 2023 before this Court, seeking for an enquiry to be conducted, under Sections 70 & 71 of the Waqf Act, 1995. The said writ petition was ordered on 13.04.2023. He further points out that as a “person interested in the Waqf”, he moved another writ in W.P.(MD)No.11089 of 2024 which also came to be ordered by this Court on 03.06.2024. He adds he was heard by the Waqf Board, prior to the passing of the order of removal.

4. Consequent to the appeal being presented before the Tamil Nadu Waqf Tribunal, the civil revision petitioner moved an application in C.M.P.No.18 of 2024 in A.A.No.4 of 2024 seeking to implead himself in the said proceedings. It is pertinent to point out that the civil revision petitioner pleads that he is also a member of the committee elected to the



C.R.P.(PD)No.48 of 2025

Mohideen Andavar, Puradhana Dharga and Pallivasal as well as Mina

Noorudeen Puradhana Dhargah and Pallivasal.

5. This application to implead was opposed by the 1st respondent herein who is the Managing Trustee of both the religious institutions. The appellant pleaded that the order impugned is that of the Waqf Borad and therefore, the presence of the third party is unnecessary.

6.The learned Tamil Nadu Waqf Tribunal considered the affidavit and counter and came to a conclusion that the civil revision petitioner might have the status of a witness, but he need not be made as a party to the proceedings. Consequently, it dismissed the implead petition.

7. Aggrieved by the same, the present civil revision petition.

8. I heard Mr.A.Raja Mohamed in support of the revision petitioner and Mr.N.A.Nissar Ahmed, learned Senior Counsel for Ms.I.Kowsar Nissar and Ms.H.Yasmin Ali for the Tamil Nadu Waqf Board.



C.R.P.(PD)No.48 of 2025

9. The learned counsels for the parties reiterated their submissions made before the Waqf Tribunal.

10. I have considered the submissions of respective counsel and I have carefully gone through the records.

11. It is not in dispute that the proceedings for removal of Mutawallis had been initiated on a complaint that had been given by the civil revision petitioner on 06.03.2023. Apart from being a committee member and being 'a person interested in the Waqf', he had also moved writ petitions invoking the jurisdiction of this Court under Article 226 of the Constitution of India. It is also not in dispute that the civil revision petitioner was heard by the Waqf Board during the course of the proceedings, which resulted in the order, now being impugned before the Waqf Tribunal.

12. I agree with Mr.N.A.Nissar Ahmed that in an appeal filed against the removal of Mutawallis, it is the duty of the Waqf Board to sustain the order before the Tribunal. The Waqf Board and the Waqf officials alone are necessary parties. This is because, without the



C.R.P.(PD)No.48 of 2025

presence of the Waqf Board, the Waqf Tribunal cannot effectively pass an order in the appeal filed under Section 64 of the Waqf Act, 1995. That does not mean that a person at whose instance the entire proceedings were initiated should be kept out from the proceedings. He is not a necessary party. I would construe him to be a proper party. His presence would be an assistance to the Waqf Board to defend its order. It is not that the Waqf Board requires any struts to support its order and even if struts are provided, the Waqf Tribunal has to only deal with the legality, proprietary and validity of the order passed by the Waqf Board in the appeal. Yet, the presence of the civil revision petitioner might be of use to the Waqf Tribunal in arriving at a just conclusion.

13. In the light of the above discussions, I pass the following order:

(i) The order of the Waqf Tribunal in C.M.P.No.18 of 2024 in A.A.No.4 of 2024 dated 13.12.2024 is set aside.

(ii) C.M.P.No.18 of 2024 is allowed.

(iii) It is made clear by virtue of the fact that the party has been impleaded to the proceedings does not mean that the civil revision petitioner will be entitled to produce fresh materials before the Waqf



C.R.P.(PD)No.48 of 2025

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Tribunal.

(iv) The Waqf Board shall be entitled to defend its order first and in case, it is necessary, the counsel for the civil revision petitioner will be entitled to assist the learned counsel appearing for the Tamil Nadu Waqf Board and make his submissions.

14. With the above observations, the civil revision petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

23.01.2025

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation : Yes/No

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To

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Rep. by its Chief Executive Officer,
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C.R.P.(PD)No.48 of 2025

V. LAKSHMINARAYANAN,J.

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