

W.P(MD)No.22949 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.06.2025

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Writ Petition(MD)No.22949 of 2024

and

W.M.P(MD)Nos.19464, 19465 & 21682 of 2024

B.Mohammad Rafik

..Petitioner

Vs

- 1.The Commissioner,
Land Administration,
Chepauk,
Chennai – 600 005.
- 2.The District Revenue Officer,
Trichy District,
Trichy.
- 3.The Revenue Divisional Officer,
Thiruverumbur,
Trichy District.
- 4.The Tahsildar,
Thiruverumbur Taluk,
Trichy District.
- 5.A.B.Rabiulla
Chief Executive Officer,
Tamil Nadu Waqf Board,
No.1, Jabar Sirag Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.



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6.K.Muhamed rafeek,
No.6 Varusai Rawoother Pattai,
Mela pudur,
Trichy District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the proceeding passed by the 2nd respondent in Na.Ka.A6/41156/2023 dated 07.07.2023 and quash the same as illegal against natural justice and consequently, direct the respondent to conduct re-enquiry based on the representation dated 12.08.2024.

For Petitioner : Mr.A.Joseph Jerry

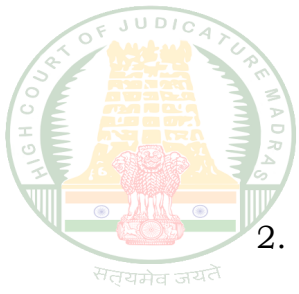
For Respondents : Mr.D.S.Nedunchezian
Govt. Advocate (RR1 to 4)

Mr.D.S.Haroon Rasheed
Standing Counsel (R5)

Ms.A.Ajimath Begum (R6)

ORDER

This writ petition is filed challenging the order passed by the second respondent ordering the grant of patta in favour of Varusai Rowther Chatram and Thaneer Pandal Waqf after the removal of the names of certain individuals, including that of the writ petitioner's father, Basheer Ahamed in respect of the property measuring an extent of 12.68.50 Hectares comprised in S.No.198 situated at Papakurichi Village, Trichy District.



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2. Heard the learned counsel for the petitioner, the learned Government Advocate, who appeared for the respondents 1 to 4, the learned Standing Counsel, who appeared for the fifth respondent, and the learned counsel, who appeared for the sixth respondent.

3. According to the petitioner, he is one of the legal heirs of Varusai Mohammed Rawther. It is stated by the petitioner that one Kulam Mohideen, who is also one of the legal heirs of Varusai Mohammed Rawther, executed a gift deed in favour of Mariyam Beevi in the year 1902, under which the above-said subject property was gifted. According to the petitioner, the patta for the said property originally stood in the name of five persons, including the petitioner's father, Basheer Ahamed. The fifth respondent petitioned before the second respondent seeking a correction of the revenue records for deletion of individual names and the grant of patta in the name of Varusai Rowther Chatram and Thaneer Pandal Waqf. The second respondent passed the impugned order deleting the names of the individuals in the revenue records, including that of the petitioner's father, Basheer Ahamed, and issued a patta exclusively in the name of the above-said Waqf. According to the petitioner, the impugned order has been passed behind his back, and therefore, the same is liable to be set aside.

4. It is vehemently contended by the learned counsel for the petitioner that in the old revenue records, the names of the petitioner's father, Basheer



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Ahamed, and five other persons were included, and by virtue of the impugned order, the second respondent deleted the names of the individuals and issued patta exclusively in the name of the waqf, and the same is untenable in law.

5. It is submitted by the learned counsel appearing for the respondents 5 and 6 that the fifth respondent, Waqf Board, filed a suit for declaration of title and for recovery of possession in respect of the subject property in O.S.No.37 of 1968 on the file of the Sub Court, Trichy, against the petitioner's father, Basheer Ahamed, and others. The said suit was dismissed by the trial Court. Aggrieved by the same, the fifth respondent filed an appeal in A.S.No.263 of 1974 on the file of this Court. The said appeal was allowed, and it was declared that the subject property was waqf property. This Court also passed the decree for recovery of possession against the three defendants therein, including the father of the present petitioner, Basheer Ahamed. Therefore, according to him, the civil Court already declared that the property belonged to Varusai Rowther Chatram and Thaneer Pandal Waqf, and on the strength of the civil Court decree in favour of the wakf, the fifth respondent filed an application before the second respondent, seeking issuance of patta in the name of the wakf after deletion of the names of the private individuals whose names have been wrongly included in the patta. The second respondent, following the finding of the civil Court, passed the impugned order granting patta in the name of



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the wakf. That order has been challenged by the writ petitioner by suppressing the earlier proceedings. Therefore, the learned counsel for the respondents 5 and 6 sought the dismissal of the writ petition.

6. A perusal of the pleadings of the parties and typed set of papers would indicate that, in respect of the subject property, a civil suit was filed by the fifth respondent, seeking a declaration that the subject property was waqf property and for recovery of possession against the petitioner's father, Basheer Ahamed, and others. The subject property has been included as item No.2 in the plaint schedule. The said suit was resisted by the petitioner's father and others on various grounds, including adverse possession. The trial Court dismissed the suit. Aggrieved by the same, the fifth respondent filed an appeal before this Court in A.S.No.263 of 1974. This Court allowed the appeal filed by the fifth respondent and declared that the subject property was waqf property and granted the relief of recovery of possession. The defence of adverse possession raised by the petitioner's father and others was negatived. Based on the civil Court's finding, the fifth respondent filed an application before the second respondent, seeking deletion of the individuals' names in the revenue records, including that of the petitioner's father, Basheer Ahamed.

7. A perusal of the impugned order would suggest that earlier the revenue records stood in the name of Varusai Rawther Chatram and



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Thaneer Pandal Waqf and 7 other individuals, including the petitioner's father, Basheer Ahamed. In view of the declaration granted by the civil Court, the second respondent rightly deleted the names of the individuals and issued patta exclusively in the name of Varusai Rawther Chatram and Thaneer Pandal. Aggrieved by the said order, the petitioner has come before this Court.

8. In the writ petition, the petitioner has not disclosed the civil litigation between his father, Basheer Ahamed, and the fifth respondent, wakf. By suppressing the material facts with regard to the adverse finding of the civil Court, the petitioner approached this Court, challenging the order passed by the second respondent. A person invoking equitable jurisdiction of this Court should approach this Court with clean hands and with full facts. The petitioner suppressed the civil Court decree for declaration and possession against his father and filed this writ petition as if the impugned order was passed without affording an opportunity to the petitioner. It is not as if the impugned order creates a new rights of the parties over the subject property. The impugned order only wants to give effect to the civil Court's finding in A.S.No.263 of 1974 on the file of this Court. The petitioner's father was party to the proceedings in A.S.No.263 of 1974, and he suffered a decree. Therefore, any adverse finding rendered in A.S.No.263 of 1974 is binding on the petitioner who claims rights under his father, Basheer Ahamed.

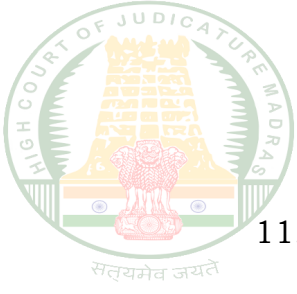


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9. In these circumstances, the submissions made by the learned counsel for the petitioner that the impugned order passed by the second respondent is violative of the principles of natural justice, is not acceptable. The impugned order only wants to give effect to the civil Court's decree passed in A.S.No.263 of 1974. The petitioner's father, Basheer Ahamed, very well participated in the said proceedings. In fact, in the judgment rendered in A.S.No.263 of 1974, this Court recorded the counsel for the respondent therein (counsel for the petitioner's father, Basheer Ahamed) did not challenge the finding that the suit properties were trust properties. Therefore, the civil Court's finding rendered in A.S.No.263 of 1974 is binding on the petitioner, and he cannot complaint that he was not heard before passing the impugned order, which only wants to give effect to the civil Court finding with regard to the title of the subject property. Therefore, the contention raised by the learned counsel for the petitioner is not appealable to this Court.

10. It is pertinent to point out that the very same impugned order was challenged by one Kalimuthu in W.P.(MD)No.24922 of 2023 and the said writ petition was dismissed by this Court by relying on the civil Court finding.



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11. In view of above, I do not find any reason to interfere with the impugned order passed by the second respondent. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

10.06.2025

NCC : Yes/No

Index : Yes/No

Internet:Yes

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