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W.P.(MD)NO.31793 OF 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.31793 of 2025 AND
W.M.P.(MD)Nos.24965 & 24966 of 2025

M.Mohammed Abdul Kader

... Petitioner

Vs.

The Chief Executive Officer,
Tamil Nadu Wakf Board,
Door No.1, Jafar Sirang Street,
Vallal Seethakathi Nagar,
Chennai – 600 001.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the order passed by the respondent vide proc. No.14604/07/B1/KK, dated 27.09.2022 quash the same.

For Petitioner : Mr.C.T.Perumal

For Respondent : Mr.K.K.Senthil

For Intervenor : Mr.A.Haja Mohideen

* * *

**ORDER**

Heard both sides.

2. The writ petitioner is the past executive committee member of the Waqf in question. He feels aggrieved by the impugned order passed by the Waqf Board relegating the incumbent present trustee to go before the District Magistrate, Additional District Magistrate and Sub-Divisional Magistrate under Section 68 of the Waqf Act, 1995. The present trustee filed W.P.(MD)No.15636 of 2022 seeking direction to the Waqf Board to dispose of the representation so that he can assume charge. The said writ petition was disposed of on 27.07.2022 in the following terms:-

“6. In view of the same, this Court directed the first respondent to conduct an enquiry and dispose of the petitioner's representation, dated 18.06.2022 within a period of three months from the date of receipt of a copy of this order, of course after giving opportunity of hearing. Further, the outcome of enquiry to be informed to be petitioner within 15 days of completion of enquiry.”



Pursuant to the said direction, the impugned order came to be passed.

3. The operative portion of the impugned order reads as follows:-

“After careful consideration of the above facts put forth by the writ petitioner, it is found that the subject matter relates to handing over of records of the Waqf Institution to the successor committee and there is an alternative remedy available to the writ petitioner under Section 68 of the Waqf Act, 1995 and the writ petitioner is advised to take necessary steps under Section 68 of the Waqf Act by making representation to the District Magistrate, Additional District Magistrate and Sub-Divisional Magistrate for the recovery of charges, accounts, records etc. from the erstwhile management committee.”

This is challenged by the past trustee in the present writ petition.

4. The learned counsel for the writ petitioner states that without hearing the petitioner, the impugned order came to be



passed and that therefore, it should be set aside. I am unable to agree. As rightly pointed out by the learned Standing counsel for the Waqf Board, the impugned is not at all adverse to the writ petitioner.

Section 68 of the Waqf Act is as follows:-

“68. Duty of mutawalli or committee to deliver possession of records, etc.—

(1) Where any mutawalli or committee of management has been removed by the Board in accordance with provisions of this Act, or of any scheme made by the Board, the mutawalli or the committee so removed from the office (hereinafter in this section referred to as the removed mutawalli or committee) shall hand over charge and deliver possession of the records, accounts and all properties of the waqf (including cash) to the successor mutawalli or the successor committee, within one month from the date specified in the order.

(2) Where any removed mutawalli or committee fails to deliver charge or deliver possession of the records, accounts and properties (including cash) to the successor mutawalli or committee within the time specified in sub-section (1), or prevents or obstructs such mutawalli or committee, from obtaining possession thereof after expiry of the period aforesaid, the successor



mutawalli or any member of the successor committee may make an application, accompanied by a certified copy of the order appointing such successor mutawalli or committee, to any 1[District Magistrate, Additional District Magistrate, Sub-Divisional Magistrate or their equivalent] within the local limits of whose jurisdiction any part of the [waqf] property is situated and, thereupon such 1[District Magistrate, Additional District Magistrate, Sub-Divisional Magistrate or their equivalent] may, after giving notice to the removed mutawalli or members of the removed committee, make an order directing the delivery of charge and possession of such records, accounts and properties (including cash) of the 2[waqf] to the successor mutawalli or the committee, as the case may be, within such time as may be specified in the order.

(3) Where the removed mutawalli or any member of the removed committee, omits or fails to deliver charge and possession of the records, accounts and properties (including cash) within the time specified by 3[any Magistrate] under subsection (2) the removed mutawalli or every member of the removed committee, as the case may be, shall be punishable with imprisonment for a term which may extend to six months or with fine



which may extend to eight thousand rupees, or with both.

(4) Whenever any removed mutawalli or any member of the removed committee omits or fails to comply with the orders made by 3[any Magistrate] under sub-section (2), 3[any Magistrate] may authorise the successor mutawalli or committee to take charge and possession of such records, accounts, properties (including cash) and may authorise such person to take such police assistance as may be necessary for the purpose.

(5) No order of the appointment of the successor mutawalli or committee, shall be called in question in the proceedings before 3[any Magistrate] under this section.

(6) Nothing contained in this section shall bar the institution of any suit in a competent civil court by any person aggrieved by any order made under this section, to establish that he has right, title and interest in the properties specified in the order made by 3[any Magistrate] under sub-section (2)."

The Waqf Board had only called upon the incumbent trustee to pursue the remedy only in terms of the aforesaid statutory provision.

The impugned order cannot be faulted at all. Interference with the



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impugned order is not necessary. This writ petition stands
dismissed. No costs.

10.11.2025

NCS : Yes / No

Index : Yes / No

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