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WP No. 2460 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 29-01-2026**

CORAM

**THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**WP No. 2460 of 2026  
and  
WMP No.2711 of 2026**

J.A.Abuthahir

Petitioner(s)

Vs

1. The Chief Executive Officer,  
Tamil Nadu Waqf Borad,  
No.1, Jaffer Syrang Street,  
Vallal Seethakkathi Nagar,  
Chennai 600 001.

2.The Executive Committee  
Tuticorin Jamia Mosque Waqf,  
31-33, W.G.C. Road, Tuticorin 628 002.

3.A. Mohamed Kasim

Respondent(s)

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Cetiorari, calling for the records of the 2nd Respondent relating to the termination order dated 29.07.2025 and quash the same as illegal, arbitrary and violative of the principles of natural justice.

For Petitioner(s):      Mr.Riyasath Ali



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For Respondent:

Mr.C.Shankar for R1  
ORDER

This writ petition is filed with a prayer, calling for the records relating to the order, dated 29.07.2025 passed by the 2nd respondent namely, The Executive Committee of Tuticorin Jamia Mosque Waqf, whereby the Waqf had decided to alter the tenancy from the name of the petitioner to the name of the 3rd respondent.

2. Upon hearing the learned counsel for the petitioner and perusing affidavit and other materials, records of the case. The grievance of the petitioner is that the property in question was duly leased out to the petitioner. While so, he entered into a business arrangements in the nature of partnership with 3rd respondent, and since he was unwell, the 3rd respondent was looking after his business. While so, suddenly taking advantage of the same, the 3rd respondent is now wants to grab the property. Therefore, upon his representation, the 2nd respondent has found as if the property has been sub-let to the 3rd respondent unauthorisedly and changed the tenancy itself in the name of the 3rd respondent.

3. According to the learned counsel for the petitioner, documentary evidence of partnership/arrangement of business is also produced along with the typed set of papers, which will show that the petitioner is continuing as a tenant and the 3rd



respondent is nobody except for being the business partner conducting the business and there is no any sub-lease. Even if there is any sub-lease, the petitioner has to be evicted in the manner known to law after conducting the enquiry. The tenancy cannot be simply changed in the name of the unauthorised sub-lease holder. Even if the eviction proceedings are taken, the property has to be disposed of afresh by way of a public auction and therefore, the impugned order cannot stand even for a minute. Hence, the writ petition.

4. When this Court posed a question as to how straight away the writ petition is maintainable as against the decision of waqf. The learned counsel for the petitioner would rely upon Section 101(2) of the Waqf Act. Section 101(2) of the Waqf Act only creates the legal fiction, stating that the every officer of waqf will be a public servant within the meaning of Section 21 of the Indian Penal Code, in the sense that they can be prosecuted under the Prevention of Corruption Act, 1988, as a public officer or for any other offences as the case may be. The said definition will not make the waqf as an Authority of State or make the instant duty as a public duty, so that the writ petition will be entertained under Article 226 of the Constitution of India.

5. On the other hand, it can be seen that as per Section 84 of the Act, any question relating to any waqf property including the tenancy issues shall be



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determined only by the Tribunal and it will open for the petitioner to very well approach the Tribunal. When the petitioner approaches the Tribunal, within a period of three (3) weeks from today, the prayer including the interim prayer if any, shall be considered by the Tribunal. Until the Tribunal takes up the case of the petitioner for interim orders, let there shall not be any further precipitation of the matter by all concerned. It is made clear that the writ petition is disposed of in the admission stage. No view is expressed with reference to the factual matrix contained in the writ petition and all questions are left open to be agitated before the Tribunal. No costs. Consequently, connected Miscellaneous Petition is closed.

**29-01-2026**

Jd

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1. The Chief Executive Officer,  
Tamil Nadu Waqf Board,  
No.1, Jaffer Syrang Street,  
Vallal Seethakkathi Nagar,  
Chennai 600 001.

2. The Executive Committee  
Tuticorin Jamia Mosque Waqf,  
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