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CRP No. 1437 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 25.03.2026

Pronounced on : .06.2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP No. 1437 of 2008

and

M.P.No.1 of 2008

Adam Sait And Abdullah Sait
Maternity Hospital Charity Wakf
Rep By Its Mutawalli
Southwick,
Conoor Road,
Ootacamund.

..Petitioner(s)

Vs

1. V.Chelladurai
2. Janakiammal(Died)
3. K.S.Arumugham(Died)
4. Kamalam
5. R.Velu (Died)
6. M.Ramasamy(Died)
7. S.Velayudham
8. Sarfudeen (Died)
9. The Chief Executive Officer
Tamil Nadu Wakf Board, Chennai



10. The Superintendent Of Wakfs
Coimbatore.

11. Somasundaram

12. Ganeshan

13. Seethalakshmi

14. Sundar Rajan

15. Priya

(RR11 to R15 brought on record as Lrs of the
deceased R2 viz., Janakiammal vide court order
dated 25.10.2018 made in MPs 1 to 9/2014 in
CRP.NO.1437/2008)

16. Krishnamoorthy

17. V. Krishnakumar

(RR16 and 17 brought on record as LR's of the
deceased R5 viz., R. Velu vide court order dated
25.10.2018 made in MPs 1 to 9/2014 in
C.R.P.NO.1437/2008)

18. Meharunisha

19. Palkis

20. Ameer Abbas

(RR18 to 20 brought on record as Lrs of the
deceased R8 viz., Sharbudheen vide court order
dated 25.10.2018 made in MPs 1 to 9/2014 in
C.R.P.NO.1437/2008)

21. Bhuvaneshwari @ Rani

22. Nirmala

23. Rani

24. Yogesh

(RR21 to R23 brought on record as Lrs of the



deceased R3 viz., K.S.Arumugham made in
CMP.Nos.1872, 1873, 1875 & 1876/2021 and
Respondent 24 brought on record as Lrs of the
deceased R6 viz., M.Ramasamy made in
CMP.NO.1656 and 1657 of 2021 in
C.R.P.NO.1437/2008 vide court order dated
12.04.2022

..Respondent(s)

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Order and decreetal order in O.S.No.53 of 2004 on the file of the Wakf Tribunal cum Sub-Court, Udagamandalam dated 09.01.2008.

For Petitioner(s): M/s.V.Srimathi

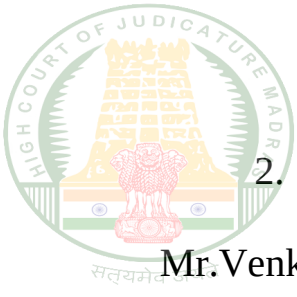
For Respondent(s): Mr.Venkatesan
For S.Emily Venkatesan
(For R1 R4, 7, 11 to 24)

RR2, R3, R5, R6 and R8 - Died

Mr.Mohammed Fayaz Ali
(For RR9 And 10)

ORDER

The present Civil Revision Petition has been filed against the Order and decreetal order in O.S.No.53 of 2004 on the file of the Wakf Tribunal cum Sub-Court, Udagamandalam dated 09.01.2008.



2. Heard Ms.V.Srimathi, learned counsel for the petitioner and Mr.Venkatesan, learned counsel, representing M/s.Emily Venkatesan, learned counsel for respondents 1, 4, 7, 11 to 24 and Mr.Mohammed Fayaz Ali, learned counsel for respondents 9 and 10.

3. The learned counsel appearing for the petitioner would submit that the private respondents herein have all encroached upon the properties belonging to the petitioner Waqf. Notices to the encroachers were issued, invoking the powers under Section 64 of the Waqf Act by the Waqf Board, and after hearing the respective parties, an order of eviction came to be passed.

4. Thereafter, the private respondents had instituted a suit for declaration of title and injunction, claiming that the property is a Government poramboke land, in which they have been in uninterrupted occupation and enjoyment. They had also pleaded that the Waqf does not own the property.

5. The learned counsel for the petitioner would submit that in spite of substantiation of the title of the Waqf property by various documents



and also the evidence of the Tahsildar, the Court below, on presumptions and assumptions, had come to the conclusion that the suit schedule property is a poramboke land, over which, the Waqf do not have any title and have decreed the suit as prayed for. She would vehemently contend that no documents of title had been filed by the private respondents except 'B' memo. She would submit that only after initiation of action against the private respondents to evict them from the suit schedule property, the private respondents had instituted the present suit and have produced documents such as 'B' memo and house tax receipts, which are all obtained only after the initiation of proceedings against them. She would further submit that they had not produced any documents prior to the initiation of proceedings by the Waqf Board.

6. Relying heavily upon the evidence of D.W.2, who was the Tahsildar of the locality, she would submit that the land belongs to the Waqf Board and that the 'B' memos that were issued do not relate to the Waqf property but relate to an encroachment on the road margin and not the Waqf property. She would submit that the same had been clearly spoken to by D.W.2/Tahsildar, and overlooking the same, the learned trial Court, framing various issues, had held that the private respondents are



only in encroachment of Government poramboke lands and not in occupation of lands belonging to the Waqf Board, and to grant decree in their favour. Hence, she seeks indulgence of this Court.

7. Countering her arguments, the learned counsel appearing on behalf of the private respondents would submit that the entire lands to which the petitioner claims title and ownership are not in occupation of the private respondents, and that they are only in occupation of Government poramboke lands for which 'B' memos have been issued, upon which they had put up superstructures where they are residing, and house tax receipts are also being issued.

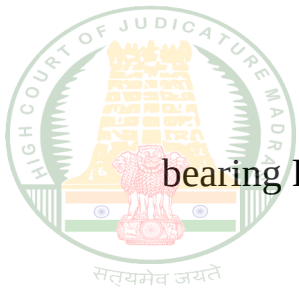
8. He would submit that the petitioner had failed to produce any substantive documents to claim that the suit schedule property is Waqf property. On the other hand, analysing the evidence of D.W.2, it could be seen that the respondents are in possession of Government poramboke lands for which 'B' memos have been issued and charges have been paid by the private respondents. He would further submit that the properties are all assessed to the Coonoor Municipality and they have been paying tax regularly much beyond the statutory period, and therefore they also claim



title by adverse possession. He would submit that the trial Court, after considering the materials available on record, had in clear terms held that the private respondents are all in possession only of Government poramboke lands for which 'B' memos had been issued and they are not in possession of the Waqf property. He would submit when that is the categorical finding of the trial Court based upon the documents and evidences, there is no necessity for this Court to grant any indulgence, while considering the judgment and decree of the trial Court. Hence, he seeks dismissal of the revision.

9. I have considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.

10. The Waqf as well as the private respondents heavily contest the nature of the suit property as to whether it is Waqf property in possession of the Waqf or land belonging to the Government in the nature of road poramboke. In that context, it is relevant to note that the Tahsildar had been examined as D.W.2. This Court is of the view that the evidence of D.W.2 would suffice to decide the issue with regard to the suit schedule property. The suit schedule property lies in Town Survey No.B/46/5/1



bearing Re-survey No.1017.

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11. In the Chief examination, D.W.2, had categorically spoken that the said property belongs to the Waqf Board, namely the petitioner herein, and that on the request of the Waqf Board, steps were taken to remove the encroachment.

12. In the cross-examination, D.W.2 had also spoken that near the Waqf property, there are Government poramboke lands and that the private respondents, who are the plaintiffs were in encroachment of the said lands also, for which, B memo had been issued under Ex.P4, and the nature of the encroachment was also spoken to be an encroachment on the side of the roads.

13. The private respondents/plaintiffs had not attempted to discredit the chief examination of D.W.2, wherein he had specifically spoken that the suit property belonged to the Waqf Board and that the private respondents/plaintiffs did not have any right over the same. No attempt had also been made to cross-examine D.W.2 to substantiate that they were not in possession of the suit schedule property.

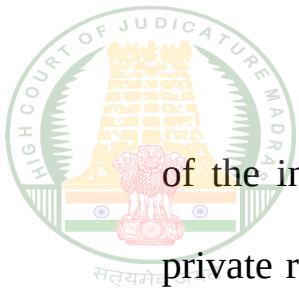


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14. One Arumugham, who is the third plaintiff, had examined himself as P.W.1, and in his cross-examination, he had specifically admitted that he is not aware of the nature or classification of the suit survey No.1071 as to whether the same belongs to the Government, and he had further admitted that he does not know, in which survey number, he had put up his house. Further, he had specifically deposed that even assuming that the said property belonged to the Waqf, there is no necessity for him to vacate the said property as he had been in possession and enjoyment for more than 27 years.

15. It is to be noted that in support of the said claim, the plaintiffs had not produced any documents, and it is a specific admission in the cross-examination that Exs. P4 and P5, which were the 'B' memos and house tax receipts, had been issued only in the year 2003, and there is also categorical admission that patta had not been issued in their favour.

16. In light of the discussions above, this Court is of the view that the private respondents/plaintiffs have not substantiated that they are not in possession of property belonging to the Waqf. Secondly, on the evidence



of the independent witness, namely D.W.2/Tahsildar, it is clear that the private respondents are in encroachment of the Waqf property. They may also be in possession of the Government poramboke lands, as admitted to by D.W.2, but a conjoint reading of the evidences, deposition of D.W.2 do not substantiate the claim that the plaintiffs are only in possession of Government poramboke lands and not the lands belonging to the Waqf.

17. On the findings that has been recorded above, this Court is of the view that the Court below had erroneously granted reliefs, declaring that the proceedings or the eviction initiated against the plaintiffs are void in law and granting permanent injunction restraining the defendants from interfering with the suit schedule property. Such decree, that too in the context when the plaintiffs had claimed that the suit schedule lands do not belong to the Waqf, which stood negatived by the categorical deposition of D.W.2, which the Court below had failed to note. This Court is of the considered view that the judgment and decree passed by the Court below is liable to be interfered with.

18. In fine, this revision petition stands allowed and the Judgment and decree made in O.S.No.53 of 2004 on the file of the Wakf



Tribunal cum Sub-Court, Udagamandalam dated 09.01.2008 stands

set aside. The private respondents are granted three (3) months time to

vacate the property. No costs. Consequently, connected miscellaneous

petition is closed.

-06-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1. The Wakf Tribunal cum Sub-Court,
Udagamandalam.

2. The Chief Executive Officer
Tamil Nadu Wakf Board, Chennai.

3. The Superintendent Of Wakfs
Coimbatore.



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K.KUMARESH BABU, J.

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