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CRP No. 1033 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2026

CORAM

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

CRP No. 1033 of 2015

& MP.No.1 of 2015

Nawab Khairunnissa Begum
Sahiba Wakf and Pappu Masthan Dargah,
Rep by its Joint Secretary,
namely, Mr.A.K.Zarook Ali
No.31, Big Street, Triplicane, Chennai.
Substituted Vide Court order dated 04/10/2023
made in CMP No.6879 of 2022 in
CRP No.1033 of 2015 by JSNPJ

..Petitioner(s)

Vs

1. Mr.Ansar Basha
S/o Late Syed Ghouse, No.12,
P.M.Dargah 3rd Street, Lloyd's Road,
Triplicane, Chennai – 600 005.
2. Mr.Nishad Ahmed
S/o Shajahan, No.4/77, Mela Agraharam,
Pichandayar Koil, Tiruchirapalli.
3. Mr.E.Manohar
Ismail Grounds, Lloyds Rd, Triplicane,
Chennai.
4. Mr.Dewan Mohamed,
S/o Pakker Mohamed, No.12, P.M.Dargah
3rd Street, Triplicane, Chennai – 600 005.
5. The Tamil Nadu Wakf Board,
Rep By Its Chief Executive Officer,
No.1, Jaffer Syrang Street,
Vallal Seethakathi Ngr, Chennai – 600 001.
6. Mr.Dharvash
S/o Late Syed Ghouse, No.12, P.M.Dargah
3rd Street, Lloyd's Road, Chennai.
7. Inayath Basha
S/o Late Syed Ghouse,
No.12, P.M.Dargah 3rd Street, Lloyd's Rd,
Chennai.



..Respondent(s)

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India r/w. Article 83(9) of the Wakf Act, to set aside the order dated 23.01.2025 passed by the Hon'ble I Asst. Judge, City Civil Court, Chennai (Wakf Tribunal) in I.A.No.13661 of 2014 in O.S.No.3954 of 2009.

For Petitioner(s): Mr. L. Gavaskar

For Respondent(s): RR1 and 2 – died
R3- not ready in notice
RR4, 6 and 7 – no appearance
Mrs.V.Srimathi for R5

ORDER

The present Civil Revision Petition has been filed to set aside the order dated 23.01.2025 passed by the Hon'ble I Asst. Judge, City Civil Court, Chennai (Wakf Tribunal) in I.A.No.13661 of 2014 in O.S.No.3954 of 2009.

2. Heard Mr.L. Gavaskar, learned counsel for the petitioner and Mrs.V.Srimathi, learned counsel for the fifth respondent.

3.The respondents 6 and 7, on whose instance the interlocutory application for impleading has been ordered and which is the subject matter of this Revision have been served with notice and they had also entered appearance through counsel. However, when the matter is taken up today, there



is no representation on their behalf. Even though, the Court had recorded the death of the respondents 1 and 2, no steps have been taken and similarly with respect of respondents 3 and 4, notice is yet to be served upon them.

4.Considering the lis that is involved in the present Revision, which relates only to the impleading application filed by the respondents 6 and 7, which has been allowed, this Court is of the view that the presence of the legal heirs of respondents 1 and 2 and respondents 3 and 4 is not necessary and hence, proceeds with the case.

5.The learned counsel for the petitioner would submit that the petitioner had instituted a suit as early as in the year 2009 seeking for a permanent injunction restraining the defendants 1 to 4, who are the respondents 1 to 4 in the present Revision from interfering with the plaintiff's peaceful possession and enjoyment of the suit property, which is a burial ground. He would further submit that in the said suit, the trial had been completed by recording of evidence and it was posted for arguments and at that stage, strangers to the lis had filed an impleading application to implead themselves without any cause. He would further submit that the claim of respondents 6 and 7 is that the said property would belong to them.



6. In that context, he had taken this Court to the Judgment in WP.No.16693 of 2012, which was initially filed by the respondents 6 and 7 along with another person for issuance of writ of mandamus to forbear the respondents therein, namely the 5th respondent herein and an individual and the Tahsildar of the region from in any manner resorting to any developmental activities by way of construction or grant of lease or otherwise to any other party without establishing their absolute right over the property. He would submit that the said Writ was dismissed, however granting liberty to the petitioners therein to establish their rights in appropriate civil Court. He would submit that without filing an independent suit to establish their right, at the stage of arguments, the respondents 6 and 7 had filed an impleading application in a suit filed by the petitioner for bare injunction against the private defendants therein. He would submit that the Court below without appropriately appreciating the issue that was involved, in a casual manner, had allowed the impleading application. Hence, he seeks indulgence of this Court.

7. The learned counsel appearing for the fifth respondent would reiterate the statements made by the learned counsel for the petitioner and would further submit that the property is a Waqf property as recorded in the Register of wakf. She would further submit that even assuming that the claim of respondents 6 and 7 of an inam in their favour is true, it is for them to establish it in an



independent suit and they are not necessary parties in a suit filed by the waqf as against the private individuals from interfering with its possession. Hence, she also prays to allow the Revision, thereby dismissing the Interlocutory Application in I.A.No.13661 of 2014.

8.I have considered the submissions made by the learned counsel appearing for the petitioner and the learned counsel for the fifth respondent and perused the materials available on record.

9. The petitioner has instituted a suit seeking for permanent injunction as against respondents 1 to 4 in the present suit. The interim injunction has also been granted by the trial Court which continues even till date. The 6th and 7th respondents had filed Writ Petition in W.P.No.16693 of 2012 with the following prayer:

"Writ Petition No.16693 of 2012 filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus forbearing the respondents 1 to 3 from in any manner resorting to any developmental activities by way of construction, grant of leave, or otherwise to any third party without first establishing their absolute right over the property situated at R.S.Nos.1055, 1055/1 & 1055/2 in Block No.22, Mylapore Division, Mylapore Village, situated at Lloyds Road, (Avvai Shanmugam Mylapore Village, situated at Lloyds Road, (Avvai Shanmugam Salai), Triplicane, Chennai – 5 pursuant to the first



*respondent's proceedings made in
Na.Ka.244/Chennai/11/Va.Ka./RTI, dated 23.11.2011 holding that
the above mentioned property do not belong to the Wakf Board."*

10.The said writ petition was dismissed by this Court along with the writ petition filed by the petitioner on 05.09.2012, wherein, this Court recording the statements made by the petitioners therein that the said land is a private land, as obtained from the Right to Information Act, was not owned by the Waqf Board, has dismissed it. However, it granted liberty to them to establish their right before a civil Court in an appropriate suit. For better understanding paragraph 5 of the said order is extracted hereunder:-

"According to the petitioner in W.P.No.16693 of 2012, the Deputy Tahsildar, Mylapore-Triplicane Taluk has given a reply under the Right to Information Act, 2005 stating that the said property is a private land and not owned by the Wakf Board. The said position is disputed by the learned counsel for the respondents in W.P.No.16693 of 2012. As the facts are in dispute, the petitioner cannot file a writ petition with the above said prayer. If the petitioner has got any right over the property, it is for the petitioner to approach the civil court by filing appropriate suit and establish the same. Hence, both the writ petitions are dismissed. No costs. Connected miscellaneous petition is closed."

11.However, without instituting a suit, respondents 6 and 7 have filed an interlocutory application in the suit filed by the petitioner for bare injunction



against respondents 1 to 4 making a claim to the property, as if the property was gifted in favour of their ancestors for the service rendered by them, disputing the title of the petitioner.

12.As rightly pointed out by the learned counsel for the petitioner, the Court below without even considering the claims of the parties, had recorded a finding that the property is no more a waqf property and therefore, without impleading the respondents 6 and 7, if any order is passed, it will prejudice their interest. The Court had also recorded a finding that as the petitioner's claim title and that they are in possession of the property, they will be necessary parties.

13.A perusal of the affidavit filed by respondents 6 and 7 in support of their impleading application would itself disclose that their claim for patta has been rejected by the Tahsildar as early as in the year 2002, but the further averments do not indicate the steps that they have taken challenging the proceedings of the Regional Tahsildar in that regard. It has also been admitted by them that the rejection of patta was based on the reasoning that the property to which they laid a claim is a waqf land.

14.Further as rightly pointed out by the learned counsel for the fifth respondent, it is for the respondents 6 and 7 to independently establish their right in an appropriate suit to be filed by them and they cannot agitate their title



and possession in a suit filed by the petitioner as against private individuals, who were impeaching the possession and title of the petitioner.

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15. For the aforesaid reasons, the Civil Revision Petition is allowed and consequently, the order passed in I.A.No.13661 of 2014 is set aside. Considering the fact that the instant suit is filed in the year 2009 and that it is at the argument stage, there shall be a direction to the I Assistant Judge, City Civil Court, Chennai to dispose of the suit, within a period of three (3) months from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed. There shall be no order as to costs.

25-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

TSG

To

The I Assistant Judge,
City Civil Court,
Chennai (Wakf Tribunal)



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K.KUMARESH BABU, J.

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