

WA.(MD)No.2170 of 2024 & WP.(MD)No.1951 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 16.06.2026

Pronounced On : 23.06.2026

CORAM

**THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
AND
THE HON'BLE MR.JUSTICE M.JOTHIRAMAN**

WA.(MD)No.2170 of 2024 & WP.(MD)No.1951 of 2024
and
CMP.(MD)Nos.15247 & 15248 of 2024
& WMP.(MD)Nos.1950 & 1951 of 2024

W.A.(MD)No.2170 of 2024

1.S.Nainar Mohammed
2.K.Abbas Ali
3.A.Abbas

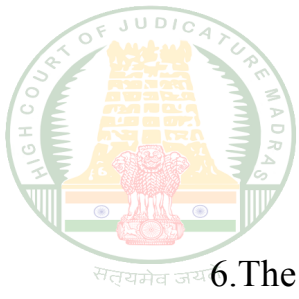
... Appellants

Vs.

1.S.Samidurai
2.R.Paramasivan
3.The District Collector,
Thenkasi District,
Thenkasi.

4.The Revenue Divisional Officer,
Sankarankovil,
Thenkasi District.

5.The Assistant Director (Land Survey),
Thenkasi District,
Thenkasi.



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6.The Thasildar,
Sankarankovil Taluk,
Thenkasi District.

7.The Commissioner,
Sankarankovil Municipality,
Thenkasi District.

8.The Deputy Superintendent of Police,
Sankarankovil,
Thenkasi District.

9.The Tamil Nadu Waqf Board,
Rep. by its Chief Administrative Officer,
No.1, Jaffarsyrang Street,
Vallalseethakathi Naagar,
Chennai-600001.

... Respondents

(R9 is impleaded as per the order of this Court dated 02.04.2025 made in CMP.(MD)No.17821 of 2024 in WA.(MD)No.2170 of 2024)

PRAYER : Writ Appeal filed under Clause 15 of letters Patent against the order dated 16.10.2024 made in W.P.(MD)No.1749 of 2024.

For Appellants : Mr.T.Lajapathi Roy,
Senior Counsel,
for M/s.Ajmal Associates

For R1 & R2 : Mr.K.P.S.Palanivelrajan,
Senior Counsel,
for Mr.M.Karthikeyavenkitachalapathy

For R3 to R6 : Mr.C.Jeganathan,
Counsel for State

For R7 : Mr.M.Rajarajan



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For R8

: Mr.I.Murugesan,
Government Advocate

For R9

: Mr.K.Jeyamohan

WP.(MD)No.1951 of 2024

Muslim Jamath Executive Committee,
Rep.by its Secretary,
Thiruvankadam Road,
Sankarankovil,
Thenkasi District.

... Petitioner

Vs.

1.The District Collector,
O/o. The District Collector,
Thenkasi District,
Thenkasi.

2.The District Revenue Officer,
O/o.The District Revenue Officer,
Thenkasi District, Thenkasi.

3.The Revenue Divisional Officer,
O/o.The Revenue Divisional Officer,
Sankarankovil, Thenkasi.

4.The Commissioner,
O/o. Commissioner Office,
Sankarankovil Municipality,
Sankarankovil,
Thenkasi District.

5.The Tahsildar,
Sankarankovil,
Thenkasi District.

6.S.Samidhurai

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.3366/2022/F1 dated 05.12.2023 and quash the same as illegal and consequently to forbear the respondents from in any way interfering with the rights of the petitioner to construct the building in S.No.227, Ward B, Block 43, Soundarapandian Vinayagarkoil Street, Sankarankovil, Thenkasi District in terms of the planning approval granted by the first respondent in planning approval No.143/BL/2023/00053 dated 22.05.2023 within the period that may be stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy,
Senior Counsel,
for M/s.Ajmal Associates

For R6 : Mr.K.P.S.Palanivelrajan,
Senior Counsel,
for Mr.M.Karthikeyavenkitachalapathy

For R1 to R3 &
R5 : Mr.C.Jeganathan,
Counsel for State

For R4 : Mr.M.Rajarajan



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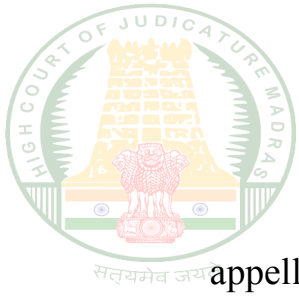
JUDGMENT

(Judgment of this Court was delivered by **M.JOTHIRAMAN J.**)

Writ Appeal in WA.(MD)No.2170 of 2024 has been filed challenging the order passed in WP.(MD)No.1749 of 2024 dated 16.10.2024.

2.Originally, one S.Samidurai and one R.Paramasivan/writ petitioners have filed a writ petition in WP.(MD)No.1749 of 2024 challenging the order passed by the District Collector, Tenkasi dated 20.11.2023, wherein the District Collector stated that the property in S.Nos.226 & 227 have to be maintained as found in the town survey register and in the computer patta.

3.It is the case of the writ petitioners that the present writ petition has been filed in order to protect the rights and interest of their community people over the land in old S.No.346/2, new S.Nos.226 & 227 in Block No.43, Ward-B in Sankarankovil Town. The rights asserted by the writ petitioners' community in T.S.No.226 is contested by the



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appellants herein/respondents 7 to 9 therein in the writ petition. The District Collector constituted a committee comprising the RDO, Sankarankovil, the Assistant Director (Land Survey), Tenkasi, the DSP, Sankarankovil, the Tahsildar, Sankarankovil and the Municipal Commissioner. The committee was headed by the District Revenue Officer. The said committee enquired both the parties and went through the documents in the meeting held on 06.11.2023. The committee noted that the claims of both the parties are not backed by documentary evidence. But as per the proforma report dated 11.02.1968 on the file of the Wakf Board, 27 cents of land in Old Survey No.346 corresponding to T.S No.227 is a wakf property. In such circumstances, the District Collector, Tenkasi issued the impugned memorandum dated 20.11.2023 stating that the District Level committee had decided that the present position maintained in the revenue records as well as Town Survey register in respect of T.S No.226 and T.S No.227 will continue. Aggrieved over the same, the writ petitioners has filed the writ petition in WP.(MD)No.1749 of 2024.



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4.The learned Writ Court allowed the writ petition in the following

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terms:-

7.In these circumstances, when a serious dispute has arisen with regard to property rights between the SC community and the Muslim community, it should be adjudicated in the manner known to law. The Hon'ble Supreme Court in Salem Muslim Burial Ground Protection Committee v. State of Tamil Nadu and ors (2023 LiveLaw (SC) 454) held that conducting of surveys before declaring of property as a wakf property is mandatory. There is nothing on record to show that such survey was conducted in this case. The District Collector, Tenkasi has mechanically gone by the proforma report. In any event, such serious disputes between two communities cannot be adjudicated by administrative committees appointed by the District Collector. Constitution of such committees has no statutory backing. It is well settled that when there are factual disputes in the matter of title, the executive authority should relegate the parties to go for judicial adjudication. In the absence of base documents, the authorities could not have arrived at any conclusion in support of the status quo. Such an approach is patently unsustainable. The property has been classified as natham area. The parties should therefore seek natham patta. So long as natham patta has



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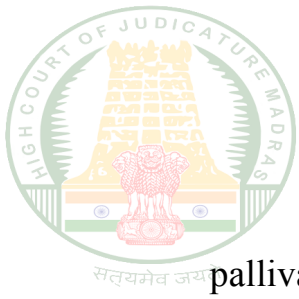
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*not been issued, it is not open to the District
Administration to endorse the stand of one party.*

Challenging the above order, the respondents 7 to 9 in the writ petition, have filed the present writ appeal in WA.(MD)No.2170 of 2024.

5.Muslim Jamath Executive Committee, represented by its Secretary has filed a writ petition in WP.(MD)No.1951 of 2024 challenging the order passed by the Commissioner, Sankarankovil Municipality dated 05.12.2023. The Commissioner, Sankarankovil Municipality issued a notice to stop the construction work undertaken by the Muslim Jamath Executive Committee in T.S.No.227.

6.It is the case of the Jamath that the petitioner Jamath is a waqf notified under Section 6 of the Waqf Act, 1995. The ryotwari lands to the extents of 17 cents and 10 cents comprised in S.Nos.226 & 227 respectively, belongs to their waqf. All the revenue records including patta vide patta No.76, adangal and the town survey register stand in the name of the petitioner Jamath. It has also been enlisted as waqf property in the proforma of the waqf which was prepared as early as in 1956. The



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pallivasal is situated in the land to an extent of 17 cents in S.No.226..

There existed a building in the land to an extent of 10 cents in S.No.227 and the same had been rented for running Municipality Middle School. They had been collecting the rent thereof. Since the said building became dilapidated, the said School was shifted by the Management to some other place. The Commissioner of Municipality has also granted approval to construct new building in plan approval No.143/ BL / 2023 / 00053 dated 22.05.2023. While being so, the people belonging to the 6th respondent community (writ petitioners in WP.(MD)No.1749 of 2024) have obstructed the construction claiming entitlement over the property of the waqf. In pursuance to their obstruction, the Commissioner had issued the impugned notice dated 05.12.2023 directing to stop the construction until further orders, otherwise the same will be termed as 'un-authorized construction'.

7.The learned Senior Counsel appearing for the appellants and the writ petitioner would submit that the impugned order passed by the District Collector dated 20.11.2023 has merely asserted that the revenue records as of then shall continue is un-sustainable in law. As of now the



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revenue records including handwritten patta, computerized patta, extract of town survey and land records stand in the name of the petition mentioned waqf for more than about 75 years. The writ petitioners therein have purposely failed to implead the waqf as a party in the writ petition, since the revenue records including patta stands in the name of the Mohammadiyar Pallivasal committee which is a registered waqf under G.S.No.222/TNV and therefore, the writ petition itself is bad for non joinder of necessary parties. The revenue records and proforma of the waqf enlisted and petition mentioned land as the waqf property in the proforma of the waqf.

8.The learned Senior Counsel would further submit that the learned Writ Court failed to consider the proforma report qua the petition mentioned waqf has categorically recorded that the petition mentioned lands comprised in S.No.346/2C1 & 2C2 have been registered as waqf property in accordance with village accounts and the Collector's order dated 19.02.1926 and thus, there is no infirmity in the order impugned in the writ petition in WP.(MD)No.1749 of 2024. Though the writ petitioners' community claims right over the petition mentioned land to

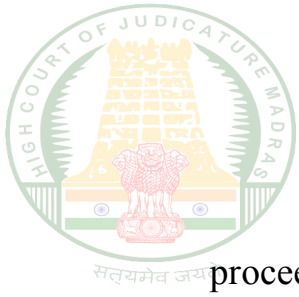


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an extent of 13 cents, they have not produced a single piece of paper to establish their right over the said land. The proceedings of the District Board, Tirunelveli datd 28.06.1955 vide resolution No.44 would clearly show that the Government considered the petition mentioned land the building situated there on as belonging to the President, Jamath committee Sankarankovil and thus, fixed rent payable to the said committee. The judgment relied upon by the learned Writ Court in Salem Muslim Burial Ground Protection Committee v. State of Tamil Nadu and ors (2023 LiveLaw (SC) 454) is not applicable to the facts and circumstances of the case in hand. The learned Writ Court ought to have seen that the petition mentioned land has been categorized as special grant natham as ascertained by the concerned authorities and as such the same ought to have been vested with the persons, which has been in continuos possession and enjoyment and the same lies with waqf alone and not for the private individuals as claimed by them.

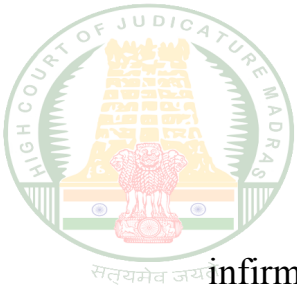
9.Per contra, the learned counsel appearing for the respondents would submit that the subject land belonged to the writ petitioners' community and the same was granted to their community by a



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proceedings in D.Dis.No.8238/2026 dated 04.10.1926 and in which the land was entrusted to their community and all these years they were in possession and enjoyment of the land. The Mohammedan Pallivasal Committee filed a civil suit in the year 1911 and in which they claimed that they are in possession and enjoyment of 14 cents of land in old S.No. 346/1 and later they claimed more extent of lands without any valid document. The Mohammedan Pallivasal Committee did not produced any document to show that the land claimed by them was validly either allotted to them or originally they are having title over the property. The District Collector relied upon a petition allegedly submitted by writ petitioners' community people in the year 1942 erroneously confirmed that the school was run by Mohammedan Pallivasal people, despite the fact that the school was run by the Government for the benefit of the general public. Proforma relied upon by the Pallivasal came to be passed in the year 1956 and Waqf Act came into existence in the year 1954 as per the decision of the Hon'ble Supreme Court in Salem Muslim Burial Ground Protection Committee v. State of Tamil Nadu and ors (2023 LiveLaw (SC) 454) and also as per Waqf Act, conducting of surveys before declaring of property as a waqf property is mandatory. There is no



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infirmity in the order passed by the learned Writ Court and prays to
dismissal of the appeal.

10.The learned counsel appearing for the ninth respondent would submit that the petitioner in WP(MD)No.1951 of 2024 Jamath is waqf as notified under Section 6 of the Waqf Act, 1995. The petition mentioned land has been enlisted as waqf property and proforma of the waqf which was prepared in the year 1956. Therefore, only Waqf Tribunal constituted under Section 83 of the Waqf Act has jurisdiction to entertain an application for determination of any dispute, question or other matter relating to a waqf under the said Act. Section 6 of the Waqf Act mandates that if any question arises whether a particular property specified as waqf property is waqf property or not, any person aggrieved may institute a suit before Tribunal. Section 85 of the Act bars the jurisdiction of any Court in respect of any dispute, question or other matter relating to any waqf or waqf property and as such the writ petitioner is not entitled to invoke the discretionary jurisdiction under Article 226 of the Constitution of India.



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11. We have considered the submissions made on either side and perused the available records carefully.

12. It is seen from the records that the District Revenue Officer/ Chief Executive Officer, Tamil Nadu Waqf Board addressed a letter to one Janaba. Nainaar Muhammed in R.C.No.13730/23/E3/CC dated 06.12.2023, wherein it has been stated that a certified copy of the proforma report (GS.222/TNV) in respect of Jamath Pallivasal at Sankarankovil is annexed as requested. From the typed-set of papers, the proforma report, copy of the document is enclosed, the relevant portion in the said proforma is extracted hereunder:-

PROFORMA REPORT

(An extract from Bound Register)

DISTRICT: THIRUNELVELI

TALUK: SANKARANKOVIL

7. Object of the wakf and the conditions of grant

: The mouque to said to have been build by the muslims of Sankarankovil about 80 years ago. No documents are traceable for this.

Object: for offering five times prayers daily in congregation and



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jumah prayer on Friday.

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11.Date of issue of notice : 26.11.55

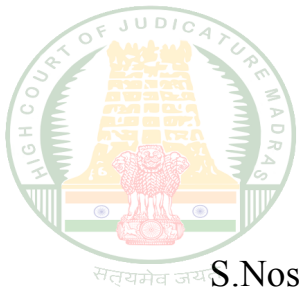
12.Date of receipt of reply : 27.02.56

13.Particulars of the wakf or properties comprised in the wakf & encumbrances : Sankarankovil-village

<i>Patt a No. or T.D. No.</i>	<i>Survey No.</i>	<i>Classificat ion</i>	<i>Exten t A.C.</i>	<i>Asst. R.A.P.</i>	<i>Quiet rent</i>	<i>Value Rs.</i>	<i>Title deeds and documents</i>
<i>(A)Sankarankovil panchayat limits</i>							
	346/1	<i>Pallivasal poramboku</i>	0-14	-	-	300	<i>As per Village accounts and Collector's D.Dis5242/ 26 dated 19.7.26</i>
	346/2c 1	“”	0-10	-	-	300	
	346/2c 2	“”	0-3	-	-	75	
			0.27			675	

Situate is the above SNO'S are the mosque, houze well latrine, Arabic Madrasa. Building rented out to the Dist Board for a accomadating a school, and 2 tea shop-all Within one compound-The school building as the 2 tea are situated in S.No. 346/2C1.

13.According to Muslim Jamath Executive Committee, the ryotwari lands to the extents of 17 cents and 10 cents comprised in



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S.Nos.226 & 227 respectively, belongs to their waqf. All the revenue records including patta vide patta No.76, adangal and the town survey register stands in the name of the petitioner Jamath. The pallivasal is situated in the land in S.No.226. Further, there existing a building in the land to an extent of 10 cents in S.No.227 (Old S.No.346/2C1) and the same had been rented out for the running the Municipality Middle School. Further, there had also been 2 tea shops within the said compound and the same was rented till around 1972. It is their case that since the said building became dilapidated, the said School was shifted by the management to some other place. They have also filed for building plan approval and the same was approved by the Commissioner, Sankarankovil Municipality dated 22.05.2023. The petitioner has also obtained permission from the Tamil Nadu Waqf Board to proceed with the construction.

14. According to the writ petitioners in WP.(MD)No.1749 of 2024, petition mentioned land belonged to their community and the same was granted by a proceedings in D.Dis.8238/26 dated 04.10.1926 and in which the land was entrusted to their community and all these years, they



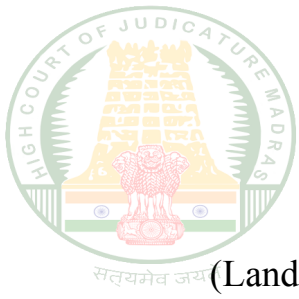
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were in possession and enjoyment of the land. It is also their case that the Mohammedan Pallivasal Committee filed a civil suit in the year 1911 and in which they claimed that they are in possession and enjoyment of 14 cents of land in old S.No.346/1 and later they claimed more extent of lands without any valid document.

15.It is seen from proforma report that the petition mentioned property has categorically recorded that the land in S.No.346/2C1 and 2C2 have been registered as waqf property in accordance with the village accounts and the Collector's order dated 19.02.1926. It is also seen from the records that the proceedings of the District Board, Tirunelveli datd 28.06.1955 vide resolution No.44 would clearly show that the Government considered the petition mentioned land the building situated there on as belonging to the President, Jamath committee Sankarankovil and thus, fixed rent payable to the said committee.

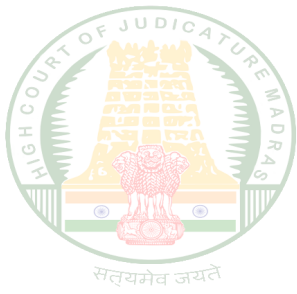
16.A perusal of the impugned order in the writ petition dated 20.11.2023 reveals that the District Collector has constituted a committee comprising the RDO, Sankarankovil, the Assistant Director



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(Land Survey), Tenkasi, the DSP, Sankarankovil, the Tahsildar, Sankarankovil and the Municipal Commissioner. The committee was headed by the District Revenue Officer. Before that committee, both side representatives have participated in the meeting held on 06.11.2023. It is also stated that previous records and documents were not available to find out that when the property in S.No.346/2 was sub-divided and how many pattas have been issued to the parties concerned for the period from 1911 to 2003. It is also mentioned that either parties have not submitted any document to establish their right in old S.No.346/2 to the extent of 2 acres and 73 cents. Further perusal of the impugned order in the writ petition clearly reveals that there is a serious dispute with regard to the title over the property in question as early in the year from 1911 between two community people. It is pertinent to mention that the possession and title over the property in dispute claimed by both the parties cannot be adjudicated in a writ proceedings. It is not possible for the Writ Court to go into the disputed question of facts alleged by the private parties in this case. The District Collector mainly relied upon the proforma report and the meeting conducted by the District Level Committee, which was constituted by the District Collector.



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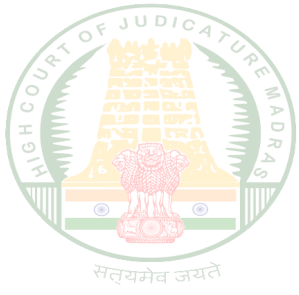
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17.In view of the above,this Court is of the view that when there are serious factual dispute with regard to possession and title of the immovable property in question, the District Collector (or) District Level Committee constituted by the District Collector cannot adjudicate the issues and the same can be adjudicated only before the appropriate judicial forum. There is no infirmity in the order of the learned Writ Court. It is made clear that the aggrieved parties can very well approach the appropriate judicial forum, in the manner known to law.

18.In the result, the writ appeal in WA.(MD)No.2170 of 2024 is dismissed and, the writ petition in WP.(MD)No.1951 of 2024 is disposed of with the above observations. No costs. Consequently, connected miscellaneous petitions are closed.

[N.S.K., J.] & [M.J.R., J.]
23.06.2026

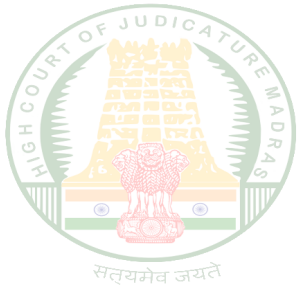
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- To
- 1.The Revenue Divisional Officer,
Sankarankovil,
Thenkasi District.
 - 2.The Assistant Director (Land Survey),
Thenkasi District,
Thenkasi.
 - 3.The Thasildar,
Sankarankovil Taluk,
Thenkasi District.
 - 4.The Commissioner,
Sankarankovil Municipality,
Thenkasi District.
 - 5.The Deputy Superintendent of Police,
Sankarankovil,
Thenkasi District.
 - 6.The District Collector,
O/o. The District Collector,
Thenkasi District,
Thenkasi.
 - 7.The District Revenue Officer,
O/o.The District Revenue Officer,
Thenkasi District, Thenkasi.



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and
M.JOTHIRAMAN, J.

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Pre-Delivery Judgement made in
WA.(MD)No.2170 of 2024 &
WP.(MD)No.1951 of 2024

23.06.2026