BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	Pronounced on
20.08.2025	16.09.2025

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

C.R.P. (MD) NO. 2161 OF 2018
AND
C.M.P. (MD) NO. 13317 OF 2025

State of Tamil Nadu rep. through
District Collector, Tirunelveli District
Kokirakulam, Tirunelveli. .. Petitioner

– Vs -

1. Kanmiya Pallivasal, Kandiaperi
   Thro' its Muthawalli
   S.Mohammed Jaffer Khan Pani
   42, Mullai Street, Pothys Nagar
   K.T.C. Nagar, Tirunelveli – 2.

2. Tamil Nadu Wakf Board
   Board 1, Jaffer Syrang Street
   Vallal Seethakathi Nagar
   Chennai – 1. .. Respondents

For Petitioner : Mr. Veera Kathiravan, AAG
Assisted by
Mr. B.Saravanan, AGP

For Respondents : Mr. V.Meenakshi Sundaram, for R-1
Mr. V.Raghavachari, SC for
Mr. G.Chandrasekar for R-2
Mr. Chevanan Mohan,
Amicus Curiae

ORDER

A case with a chequered history, spanning few centuries, which swayed between the Civil Court, the Settlement Officer, the Wakf Tribunal and this Court has returned in the form of a revision petitioner before this Court, filed by the State, aggrieved by the declaration of title and recovery of possession granted by the Principal Sub Court, Tirunelveli (Specially constituted Wakf Tribunal) in favour of the 1st respondent herein in O.S. No.299/2011 vide judgment dated 18.08.2016.

2. In this judgment, for the sake of brevity, the 1st respondent will be referred to as 'Pallivasal' and the 2nd respondent will be referred to as 'Wakf Board'.

3. A concise history of the case as is culled out from the materials available on record is broadly stated as under :-

The 1st respondent herein, as plaintiff, laid the suit in O.S. No.299/2011 before the learned Principal Subordinate Court (Wakf Tribunal), Tirunelveli, praying for a declaration and consequential permanent injunction to declare that the suit scheduled properties belonged to the plaintiff/Pallivasal and to restrain the 1st defendant/revision petitioner from in any manner interfering

with the peaceful possession and enjoyment of the same and in case the Tribunal felt the suit property is in possession of the 1st defendant/State, order recovery of possession of the suit property in favour of the plaintiff.

4. It is the further averment of the plaintiff/1st respondent herein, viz., the Pallivasal, that the suit property belonged to the Wakf based on the gift/inam given to the Pallivasal during Salivahana 1634 (A.D. 1712) by the then Ruler of Madurai and subsequently proforma of Wakf u/s 3 and 4 of the Wakf Act was drawn, which gave the title to the suit property to the wakf and, which has subsequently been gazetted in the official gazette on 13.05.1959 and that the Pallivasal relied on the judgment and decree passed by the learned Subordinate Judge, Tirunelveli in O.S. No.49/1952 dated 8.3.1955.

5. It is the further averment of the revision petitioner that the suit in O.S. No.49 of 1952 was filed by one Misir Khan Pani Sahib against the State and six other private defendants seeking declaration that the villages set out in the schedule to the plaint are not estates under the Madras Estates Land Act, that all the lands in the villages are absolute iruwaram pannai lands and not 'ryoti' lands, or in the alternative that the lands held are service tenure lands coming within the definition of Section 3 (16)(c) of the Estates Land Act and

therefore not ryoti lands and that the Estates Land (Reduction of Rent) Act (for short 'Act 30/1947') is not applicable to the lands in the villages and for an injunction restraining the 1st defendant from collecting rents or taking any action under Madras Act XXX of 1947 and restraining the 1st defendant from interfering with the plaintiffs' collection of income, profits, rent, etc., from the tenants of the villages and for costs of suit.

6. It is the further averment of the revision petitioner that the trial court decreed the suit vide judgment dated 8.3.1955 declaring that the village of Islapuram with its hamlets of Lakshmipuram, Anaikkarai and Andhiradhi Kudiyiruppu and Rahmatpuram in Nanguneri Taluk, Tirunelveli District are not 'estates' under the Madras Estates Land Act and that all the lands are absolute 'iruwaram pannai lands' and not ryoti lands and thus restrained the State from collecting rents and interfering with the plaintiff's/Pallivasal's collection of income from the tenants of the villages.

7. It is the further averment of the revision petitioner that the suit was decreed by the trial court based on the decree passed in O.S. No.49/1952 in which reliance has been placed on Ex.A-1 – Copper Plate, alleged to have been granted by the ancient native ruler in favour of Kanmiya Pallivasal in respect of

nanja and punja lands in Vijiapati territory attached to Madura Samasthanam as free gift and the grant also included sarvamanyam for the maintenance of the mosque. It is the further averment of the revision petitioner that the entire case of the Pallivasal is based on the judgment and decree passed in O.S. No.49/1952 dated 8.3.1955 and as per the proforma given by the Wakf u/s 3 and 4 of the Wakf Act.

8. It is the further averment of the revision petitioner that the suit in O.S. No.299/2011 is not maintainable in view of the pleading by the State before the Wakf Tribunal that the lands were notified under the Tamil Nadu Inam (Abolition & Conversion into Ryotwari) Act, 1963 (for short 'Act, 1963') and during the settlement proceedings, the Government had declared the said properties as ryotwari lands and excluded the right of the Wakf, which has been incorporated in Settlement 'A' Register in the year 1970 itself.

9. It is the further averment of the revision petitioner that in respect of taking over of lands under the aforesaid Tamil Nadu Inam (Abolition & Conversion into Ryotwari) Act, 1963, the Government issued G.O. Ms. No.1388 dated 20.10.1966 and aggrieved by the same, the Pallivasal preferred an application before the Settlement Tahsildar No.1, Kovilpatti, seeking patta and

the said authority, vide order dated 29.5.1970 negatived the claim of patta sought for by the Pallivasal and the Revenue Appeal filed in R.A. No.158/1971 filed by the Pallivasal against the order of the Settlement Tahsildar before the Inams Abolition Tribunal (Subordinate Judge), Tirunelveli, was taken up along with R.A. Nos.58 to 67 of 1971, etc., and vide common judgment dated 9.12.1974, the appeals were dismissed confirming the order of the Settlement Tahsildar holding that unless the conditions laid down u/s 9 of Act, 1963 are satisfied, the Pallivasal is not entitled to get patta though the Pallivasal claimed that most of the lands were leased on Kattukuthagai and there are accounts to show about the same. It is further averred that no such accounts were produced either before the Settlement Tahsildar or the Tribunal.

10. It is the further averment of the revision petitioner that as against the order in appeal by the Tribunal, the Pallivasal had not filed any appeal and, thereby, the order in the Revenue Appeal became final and, therefore, the Wakf Tribunal has no power or authority to declare the subject lands as inam lands, which were given to the Pallivasal by the erstwhile rulers of Madurai and, therefore, the judgment and decree passed in O.S. No.299 of 2011 dated 18.8.2016 is bad in law and aggrieved by the same, the present revision has been filed.

11. Learned Addl. Advocate General appearing for the revision petitioner submitted that the power of the High Court is not curtailed with regard to an order passed by the Wakf Tribunal, as it stands protected u/s 83 (9) of the Wakf Act. It is the further submission of the learned Addl. Advocate General that the High Court, may on its own motion or on the application of any aggrieved person call for and examine the records for satisfying itself as to the correctness of the findings arrived at and in such circumstances, may confirm, reverse or modify such determination.

12. It is the submission of the learned Addl. Advocate General that the order passed by the Wakf Tribunal is wholly unacceptable and perverse as the Wakf Tribunal has not taken into consideration the exclusion of the Tamil Nadu Estates Land Act, 1908 (for short 'Act, 1908') and Act 30/1947 and had erroneously declared the title in favour of the Pallivasal, without considering the fact that Act 1963 has subsequently been enacted. It is the further submission of the learned Addl. Advocate General that the findings of the Wakf Tribunal that the Pallivasal is entitled to the property on the basis of Ex.A-1 – Copper Plate is against law as the said finding is manifestly erroneous and incorrect and not substantiated by proper materials by the Pallivasal.

13. It is therefore the submission of the learned counsel that when there is a flagrant abuse of fundamental principle of law, the High Court can very well invoke its jurisdiction under Article 227 of the Constitution to set right the wrong, moreso, when the Tribunal had acted outside its jurisdiction and failed to follow procedural fairness. On this issue, learned Addl. Advocate General placed reliance on the following decisions :-

3. *Shalini Shyam Shetty – Vs – Rajendra Shankar Patil (2010 (8) SCC 329);*
4. *Jai Singh – Vs – MCD (2010 (9) SCC 385);*
5. *L.Chandrakumar – Vs – Union of India (1997 (3) SCC 261);*
6. *T.C.Basappa – Vs – T.Nagappa (AIR 1954 SC 440); and*
7. *Shivkumar – Vs – State of Haryana (1994 (2) SCC 318)*

14. It is the further submission of the learned Addl. Advocate General that the findings of the Wakf Tribunal holding that the earlier decree in O.S. No.49/1952 is conclusive to declare that the property belongs to the wakf is wholly erroneous inasmuch as the District Collector, Tirunelveli has filed a written statement in the suit in O.S. No.49/1952 stating that the said Inam Villages became 'Estates' within the meaning of Section 3 (2)(d) of Act, 1908 by virtue of Amending Act XVIII of 1936. It is the further submission of the learned Addl. Advocate General that once it is established that the plaint

villages come within the meaning of Act XVIII of 1936, all the other contentions of the Pallivasal do not arise and the exclusion of Act 30/1947 does not arise. It is further submitted that no cultivating tenant appeared before the settlement officer and claimed any occupancy right.

15. It is the further submission of the learned Addl. Advocate General that the claim in suit in O.S. No.49/1952 is that the suit lands are not ryoti lands covered under Act, 1908 and, therefore, there cannot be any levy under Act, 30/1947. In this regard, in the said suit in O.S. No.49/1952, the trial court concluded that the villages of Rahamatpuram and Adhirathikudiyiruppu are not 'estates' coming under Act 30/1947 and the said Act 30/1947 is not attracted to these villages and that Section 3 (16)(c) of Act, 1908 is also not attracted and that the defendants 2 to 7 in the said suit are not entitled to kudiwaram right since both the warams belong to the Pallivasal and there are no ryoti lands in the villages. It is the submission of the learned Addl. Advocate General that the said conclusions have a bearing on the subsequent enactment, viz., Act, 1963, more particularly Section 3 (a) and (b).

16. It is the submission of the learned Addl. Advocate General that Section 3 (a) of Act, 1963, except insofar as reduction of rents and collection of

arrears of rent in the existing inam estates in which the rate of rent has been determined before the notified date under Act 30/1947, the same shall be deemed to have been repealed in their application to the inam estate. It is further submitted that on and from the enactment of Act, 1963, by virtue of Section 3 (b), the entire inam estate shall stand transferred to the Government and vest in them free of all encumbrances and the Tamil Nadu Revenue Recovery Act and the Tamil Nadu Irrigation Cess Act and all other enactments applicable to ryotwari areas shall apply to the inam estate.

17. In the backdrop of the aforesaid legal provisions contained in Act, 1963, it is the submission of the learned Addl. Advocate General that the finding rendered in O.S. No.49/1952, which is based on Act, 1908 and Act 30/1947 would not have any binding effect once Act, 1963 came into force. It is the further submission of the learned Addl. Advocate General that the findings relating to the lands coming within the purview of Act, 1908 are wholly unsustainable as the decisions taken as per Act, 1908 and Act 30/1947 stood repealed as per Section 3 (a) of Act, 1963. Therefore, reliance placed on the judgment in O.S. No.49/1952 by the Wakf Tribunal while passing orders in O.S. No.299/2011 is wholly against law.

18. It is the further submission of the learned Addl. Advocate General that the lands in question were notified by the Government in G.O. Ms. No. 3082, Revenue Department dated 20.10.1966 and published in the Government Gazette wherein the names of three inam estates including its hamlets were notified under Act, 1963 and during the settlement proceedings, the present plaintiff/1st respondent has not claimed any right whatsoever under the Act claiming that they are iruwaram pannai lands and no claim having been made during the settlement proceedings by the 1st respondent, the repealing of Act, 1908 and Act 30/1947 u/s 3 (a) and (b) of Act, 1963, would operate against the 1st respondent from claiming rights over the said lands.

19. It is the further submission of the learned Addl. Advocate General that the patta sought for by the Pallivasal before the Settlement Officer upon inclusion of the said lands in the Settlement 'A' Register was rejected after conduct of enquiry u/s 12 (2) of Act, 1963 and the appeal filed against the said rejection in R.A. No.158/1971 was also dismissed. In this backdrop, the present claim made before the Wakf Tribunal is only against the rejection of patta by the Settlement Tahsildar, which stood confirmed in appeal, by the Pallivasal and the Pallivasal having gone before the Settlement Officer for grant

of patta, the decree granted in O.S. No.49/1952, much prior to Act, 1963, cannot have any binding effect on the revision petitioner, as could be discerned from the fact that the 1st respondent/Pallivasal itself had gone before the Settlement Tahsildar and sought for patta, which clearly shows that the Pallivasal had accepted the application of not only Act, 1963, but also the power of the revision petitioner to take over the lands of the Pallivasal under Act, 1963. It is further submitted that no appeal or revision was filed against the Inam Tribunal's decision and the order has since attained finality u/s 71 of Act, 1963 and it cannot be questioned except as provided under Act, 1963.

20. It is the further submission of the learned Addl. Advocate General that the 1st respondent/Pallivasal has not filed any document to show that the proforma, which has been marked as Ex.A-1 in O.S. No.299/2011 was published in the Government Gazette as mandated u/s 5 (2) of the Wakf Act. In the absence of such notification, the Wakf Tribunal ought not have accepted the proforma report as a document against the revision petitioner as no reliance can be placed on the said report. Therefore, the findings and conclusions based on the proforma report to hold that the lands belong to the Wakf is not in accordance with law and the same has not been properly appreciated by the Wakf Tribunal.

21. It is the further submission of the learned Addl. Advocate General that the writ petitions in W.P. Nos.7541 and 7542 of 2007 filed by the alleged legal heirs of the deceased Muthavalli of the Pallivasal seeking the relief of mandamus forbearing the respondents therein from interfering with their peaceful possession and enjoyment of the suit properties or for assigning the same to third parties were dismissed by this Court vide order dated 25.11.2021 holding that the issues involved therein ought to be examined only by the Civil Court.

22. Similarly, the request for issuance of patta sought for in W.P. (MD) No.11745/2008 by considering the representation of the petitioner therein, which was directed to be considered by the District Collector, was also considered and the request was rejected vide order dated 6.2.2009 on the ground that as per the Village/Revenue Accounts, the subject properties were shown as Government Tharisu Land.

23. It is further submitted that the writ petition in W.P. (MD) No. 7341/2010 filed for direction to the Commissioner for Land Administration to consider the representation dated 1.5.2010 of the petitioner as against the

aforesaid order dated 6.2.2009 passed by the District Collector was also rejected vide proceedings dated 25.1.2011 by holding that the claim has been made on a fabricated 'A' Register.

24. Similarly the writ petition in W.P. (MD) No.16852/2013 filed by the petitioners therein praying to consider their representation by the Commissioner of Land Administration, Chennai, for grant of ryotwari patta in respect of lands in S. Nos.723/1 to 897 of Urumangulam Village of Radhapuram Taluk was disposed of in which the 1st respondent herein, viz., S.Mohamed Kader Khan is the 5th petitioner and on the basis of the said direction the representation was considered and rejected by holding that the claim is made on fabricated document and the Tahsildar concerned was directed to file an appeal as against the judgment and decree passed by the Wakf Tribunal, Tirunelveli in O.S. No.299/2011.

25. It is further submitted that the order dated 25.1.2011 of the Commissioner of Land Administration was challenged by the legal heirs of the Muthavalli in W.P. (MD) No.360/2012 and vide order dated 20.7.2022, the said writ petition was dismissed holding that the petitioners have not established their legal status and character of the property. It is therefore submitted that

the intention of the petitioners in W.P. (MD) No.360/2012 is clearly to grab the property by submitting a counterfeit 'A' Register, which has been rightly rejected by the Commissioner of Land Administration.

26. It is therefore submitted by the learned Addl. Advocate General that the series of writ petitions and the order passed thereon clearly shows the conduct of the 1st respondent and the other petitioners in the writ petitions and that the order passed in the writ petitions is binding on the parties and the Wakf Tribunal, without considering all the aforesaid aspects, has wrongly decreed the suit in favour of the Pallivasal.

27. It is the further submission of the learned Addl. Advocate General that the subject lands are around 1100 acres falling in three hamlets in the revenue village of Urumankulam and during patta proceedings, several parcels of lands were given on assignment to landless poor and 362 persons are doing agricultural operations based on assignment pattas and, therefore, the claim of the 1st respondent for issuance of ryotwari patta is not acceptable, moreso, on the basis of the declaratory decree passed in O.S. No.299/2011 which is not based on proper appreciation of materials and, therefore, the said judgment and decree requires interference at the hands of this Court.

28. It is the further submission of the learned Addl. Advocate General that even as on date, the 1st respondent has not produced any document to show that it is *'iruwaram pannai lands of the wakf'* and the claim of the 1st respondent is based on a copper plate, the original of which is admittedly not in possession of the 1st respondent. The other document relied on by the 1st respondent is the proforma, which has no legal validity in view of non-fulfilment of the provisions of Section 5 (2) of the Wakf Act and, therefore, the judgment and decree passed in O.S. No.49 of 1952 dated 8.3.1955 cannot be pressed into service, as the lands were taken over by the Government consequent upon the enactment of Act, 1963. Accordingly, for the reasons and contentions aforesaid, learned Addl. Advocate General prays this Court to set aside the judgment and decree passed in O.S. No.299/2011.

29. In support of the aforesaid submissions, learned Addl. Advocate General placed reliance on the following decisions :-

S. No.	Date	Description of Documents
1	09.04.1952	Copy of the plaint in OS No.49/1952
2	08.03.1955	Copy of judgment & Decree in OS No.49/1952
3	05.10.1964	Copy of Judgment in OS No.65/1961
4	21.10.1966	Copy of G.O. 3082 dated 20.10.1966 published in State Gazette No.152
5	14.06.1970	Copy of the Settlement A Register

6	09.12.1974	Copy of Revenue Order in Rev. Appeal Nos.58 to 67, 73 to 75, 96, 120 to 124, 126, 127 & 158 of 1971 – Inams Abolition Tirunelveli – Fair Order
7	09.12.1974	Copy of the Revenue Order (Decree) in Revenue Appeal (I.A.T.) Nos.58/1971 Inam Abolition Tribunal (Subordinate Judge, Tirunelveli) Decree Order
8	19.12.2008	Copy of the order in WP (MD) No.11745/2008
9	06.02.2009	Copy of the Endorsement in Na.Ka. No.B2/54678/2007
10	09.06.2010	Copy of the order in WP (MD) No.7341/2010
11	25.01.2011	Copy of the proceedings of the Principal Secretary & Commissioner of Land Administration, Chennai.
12	25.08.2015	Copy of the order in WP (MD) No.16852/2013
13	01.12.2016	Copy of proceedings in Na.Ka. No.A1/1961/2016
14	25.11.2021	Copy of the order in WP (MD) Nos.7541 & 7542/2007
15	20.07.2022	Copy of the order in WP (MD) No.360/2012

30. Learned counsel appearing for the 1st respondent submitted that the proforma report, the Revenue Register and the judgments in O.S. Nos. 49/1952 and 65/1961 clearly prove that the suit properties belong to the mosque. It is further submitted that the plaint schedule properties are in possession of the mosque and in the revenue records, the plaint schedule properties have wrongly been classified as poramboke land. It is the further submission of the learned counsel that even in the application filed under the Right to Information Act, the Tahsildar had stated that the suit schedule properties are poramboke lands and to the notice issued by the 1st respondent, no reply has been forthcoming from the defendant.

31. It is the further submission of the learned counsel that pre-existing right, title and interest of the Pallivasal in the suit schedule properties is clearly settled by the decisions of this Court in ***State of Tamil Nadu – Vs – Ramalinga Samigal Mutt (1985 (4) SCC 10)*** and ***Manicka Naicker – Vs – Elumalai Naicker (1995 (1) LW 731 :: 1995 (4) SCC 156)***, in and by which it is clearly evident that the orders passed in the settlement proceedings by the authorities under Act, 1963 will not extinguish the title of the Pallivasal and that the Wakf Tribunal is having all jurisdiction to go into the right derived by the Pallivasal on the copper plate grant. In the light of the above settled legal position, it is the submission of the learned counsel that the contentions of the revision petitioner that in view of the orders passed in settlement proceedings, the decree for declaration granted by the civil court is liable to be set aside is fundamentally flawed and erroneous.

32. It is the further submission of the learned counsel that the power u/s 83 (9) of the Wakf Act with regard to the power of the High Court to confirm, reverse or modify the verdict of the Wakf Tribunal is only to off-set the necessity for a revisional jurisdiction with the High Court, as an appeal against the order of the Wakf Tribunal has not been provided. It is the further

submission of the learned counsel that only to safeguard the litigant from any sufferance by the order of the Wakf Tribunal, provision is made u/s 83 (9) of the Wakf Act by clothing powers on the High Court to interfere with the order of the Wakf Tribunal where the order is perverse. However, in the present case, it is not the case of the revision petitioner that there is any perversity either in the judgment and decree passed in O.S. No.49/1952 or in the judgment and decree in O.S. No.299/2011, which is impugned herein, in which the judgment and decree in O.s. No.49/1952 has been relied upon. Further, the revision petitioner itself not having challenged the findings rendered in O.S. No.49/1952, the mere enactment of Act, 1963, would in no way protect the State from enforcing its alleged rights over the suit schedule properties by terming it to be ryotwari lands.

33. It is the further submission of the learned counsel that the scope of revision u/s 83 (9) of the Wakf Act is in *pari materia* to Section 25 of the Tamil Nadu Buildings (Lease & Rent Control) Act, 1960 and the scope of this Court being limited to testing the perversity of the order, reappreciation of the entire materials is wholly impermissible.

34. It is the further submission of the learned counsel that the

fundamental principle of Islamic law is that once a wakf always a wakf and when the dedication is of permanent nature, the same cannot be changed nor could there be any revocation of wakf. It is the submission of the learned counsel that centuries ago, the title had vested with the Lord Almighty with the 1st respondent institution holding rights by way of grant of copper place in the year AD 1712, the transcription of which was done in the year 1925, which has been marked as Ex.A-1 in O.S. No.49/1952. Further, in the year 1954, survey of the wakf was undertaken and publication was made u/s 5 (2) of the Wakf Act on 13.5.1959 and the photocopy of the gazette publication also clearly shows that gazette publication has also been made, which clearly thrashes the submission of the revision petitioner that no publication u/s 5 of the Act has been made and, therefore, the proforma cannot be relied upon.

35. It is the further submission of the learned counsel that the judgment and decree in O.S. No.49/1952 has since attained finality without it being put to test before the appellate forum. The said judgment and decree was marked as Exs.A-5 and A-6 in the subsequent suit in O.S. No.299/2011 and these findings have not been dislodged by the revision petitioner by placing any contra evidence and, therefore, the judgment and decree passed in O.S. No.49/1952, which has been followed in O.S. No.299/2011 is binding on the

revision petitioner/State of Tamil Nadu.

36. To substantiate the aforesaid submissions and also to establish that the suit schedule properties belongs to the Pallivasal, learned counsel for the 1st respondent placed the following documents for the perusal and acceptance of this Court :-

8. *Copy of Gazette publication made u/s 5 of the Wakf Act, 1954 (No.19-A), Madras, Wesnesday, May 13, 1959 (Vaisakha 23, 1981);*
9. *Copy of the translated from the Original (In Telegu) Copper Plate inscription testament touching and concerning the Khanumiah Pallivasal Mosque at Tirunelveli Town;*
10. *Copy of the Inam Register No.72 of Kandiaperi Village.*
11. *Copy of the register of Inams in Islapuram Village.*

37. It is the further submission of the learned counsel that the absolute grant of property has been mentioned as *"Sarva Manyam for Masjid Dharmam"* and that it will carry on from son to grandson so long as the sun and moon last and is with respect to the areas mentioned in the copper plate. It is the further submission of the learned counsel that the grants were not of a whole village as no village name has been mentioned and that the property contained a ruined tank, which had to be renovated and that the grantee was

to bring people, get ground rent and apply the income for the maintenance of the mosque and conduct religious ceremonies and other beneficial charities. It is the further submission of the learned counsel that the predecessor-in-title of the Pallivasal had the ownership and enjoyed the benefits of the surplus income out of the said grant after meeting the Masjid charities and that they had expended much money and labour in reclaiming the property and making it cultivable tracts and inhabited by people.

38. It is the further submission of the learned counsel that at the time of Inam Commission Enquiry, the title to the said grants were confirmed on the mosque by two separate title deeds by the Inam Commissioner on 2.6.1866 and 26.8.1865, which were in two distinct portions and were absolute tax free grants.

39. It is the further submission of the learned counsel that title deed No.149 was issued for three minor hamlets of nanja lands attached to it to an extent of 80 Kottahs 8 marakkals and 2 padis of which 40 kottahs only are cultivable. Punja lands to the extent of 133 and 37/64 sangilies. Title Deed No.213 was issued for the remaining portion of Islapuram and Rahamathpuram for punja land to an extent of 193 and 46/64 sangilies.

Columns 8 and 10 of the Inam Fair Register would show that the inams were granted for the purpose of Masjid Dharman and for performance of Urus, Ramzan, Bara, Mould, etc., and for lighting of lamps and in column 10 it is marked as *"hereditary or conditional for life or lives"* and further it is mentioned that *"so long as the mosque is kept up and the religious services are duly kept up".*

40. It is the further submission of the learned counsel that Islapuram having been confirmed under two different title deed Nos.149 and 223, the grant and confirmation being not of a whole village, it is not an estate under Act, 1908 or its subsequent amendment in the year 1936 and 1945. Further, Rahmathpuram, a hamlet of Islapuram, which is confirmed under title deed 223 along with Islapuram have been granted in two distinct parts on two different occasions as confirmed in two title deeds and as both the grants are by means of a distinct deed, it will not fall under the term *'estate'* as provided under Act, 1908 and amended subsequently.

41. It is the further submission of the learned counsel that all the lands in the aforesaid villages, including the villages of Lakshmipuram, Andiradhi Kudiyiruppu and Anaikkarai are iruwaram pannai lands and have remained

throughout as such and it is in absolute and uninterrupted enjoyment of the Pallivasal. It is further submitted that there are no ryoti lands in the village and that there have been no exchange of pattas and muchilikas at any time between the Pallivasal and the cultivating tenants and, therefore, the title to the suit schedule properties are fully with the Pallivasal and the same cannot be diluted merely by settlement proceedings under Act, 1963 and, therefore, no interference is warranted with the judgment and decree passed in O.S. No. 299/2011.

42. Insofar as the memo filed by the revision petitioner pertaining to taking on record certain documentary evidence in support of their submission, it is the submission of the learned counsel that the present memo is not only incomplete but also against Order 41 Rule 27 of the Code of Civil Procedure. It is further submitted that additional documents/evidence cannot be received/marked without following the procedure contemplated under Order 41 Rule 27 CPC and it is mandatory to file a petition to receive additional evidence and also provide the opposite parties to counter the pleadings in the petitioner with regard to additional evidence.

43. It is the further submission of the learned counsel that evidence can

be let in only by a party by swearing to an affidavit and it cannot be filed by the advocate appearing for the party. An advocate cannot lead evidence either before the court of first instance, the appellate court or the revisional court and if any additional evidence is sought to be introduced, it should adhere to the mandate under Order 41 Rule 27 CPC.

44. It is the further submission of the learned counsel that out of the 15 documents sought to be introduced as documentary evidence, 7 of the documents, viz., Doc. Nos.4, 5, 6, 7, 9, 11 and 13 are Xerox copies of revenue orders and records and the custody of the original/certified copies have not been spelt out. It is the further submission of the learned counsel that the copy of the plaint in O.S. No.49/1952 is inadmissible in evidence and insofar as the veracity of the other 8 additional documents, viz., Doc. Nos.2, 3, 8, 10, 12, 14 and 20, the 1st respondent reserves its right to object to the introduction of the same as documentary evidence.

45. In support of the aforesaid submission, learned counsel placed reliance on the following decisions :-

12. *Vatticherukuri Village Panchayat – Vs – Nori Venkatarama Deekshithulu & Ors. (1991 Supp. SCC 228);*

13. *Nawab Wallajah Sahib Pallivasal rep. By its Secretary, Tirunelveli – Vs – The Commissioner of Land Administration/Board of Revenue, Chennai & Ors. (2019 (3) CTC 625);*
14. *Subramania Gurukkal (Dead) Thru' Muthusubramania Gurukkal & Ors. – Vs – Shri Patteswaraswami Devasthanam, Perur by its Executive Officer & Ors. (1993 Supp (4) SCC 519);*
15. *Srinivasan – Vs – Madhyarjuneswaraswami (1998 (2) LW 189);*
16. *State of Madras – Vs – Kasthuri Ammal (1974 (2) MLJ 139);*
17. *T.K.Ramanujam Kavirayar – Vs – Sri-La-Sri Sivaprakasa Pandara Sannadhi Avargal (1984 SCC OnLine Mad 201);*
18. *Mumtaz Yarud Dowla Wakf – Vs – M/s.Badam Balakrishna Hotel Pvt. Ltd. (2023 SCC OnLine SC 1378); and*
19. *State of Tamil Nadu – Vs – Ramalinga Samigal Madam (1985 (4) SCC 10)*

46. Learned senior counsel appearing for the 2nd respondent, viz., Wakf Board submitted that the 1st respondent is a notified wakf and that the 2nd respondent had surveyed the Wakf as per Section 4 of the Wakf Act and the wakf was notified as per Section 5 of the Wakf Act as early as in the year 1959 in the official gazette. Such being the case, the revision petitioner is not clothed with any power to declare the said lands as Inam estates under Act,

1963.

47. It is the further submission of the learned senior counsel that the grant by the then Ruler of Madurai Samasthanam to the Wakf has been admitted by the revision petitioner in the suit in O.S. No.49/1952 and, therefore, once a wakf, always a wakf and, therefore, the lands cannot be classified as 'Government Poramboke' and any classification made by the revision petitioner is wholly without jurisdiction, as the property belonging to the wakf cannot be classified as Government Poramboke without putting the wakf on notice and hearing and even the said notice would not have any legal sanctity in view of the judgment and decree passed in O.S. No.49/1952, which has already attained finality.

48. It is the further submission of the learned senior counsel that there is an internal dispute with regard to the management of the wakf by various persons, with a view to usurp the property and, therefore, the 2nd respondent, after due enquiry u/s 65 of the Wakf Act had passed a resolution as early as on 6.10.2012 to assume direct management over the wakf and based on the said resolution, the Superintendent of Wakfs, Tirunelveli was appointed as the Executive Officer of the Wakf and the said authority has also assumed charge

of the said wakf. In such circumstances, the property, which has been granted religious purposes cannot be classified by the Government as a poramboke to be given over to any person, which would defeat the purposes for which the property was given as grant. The judgment and decree passed in O.S. No. 49/1952 is binding on all parties and without the said decree being interfered with in any manner known to law, any other order passed by any administrative or quasi-judicial authority cannot have any bearing so long as the decree in O.S. 49/1952 survives. Accordingly, he prays for dismissal of the revision petition.

49. Though a petition has been filed by one Mohammed Abubackker @ Shameer, seeking to implead himself as a respondent to canvass the plea by countering the stand of the revision petitioner by submitting that he is a regular visitor and is working for the welfare and protection of the properties of the Wakf Board, as also the properties, which have been given in grant to the 1st respondent, however, this Court is of the considered view that it would not be necessary to implead the said petitioner as party respondent to the revision petition. However, it would be suffice, in the interest of justice and considering the importance of the matter, the petitioner in CMP (MD) No. 13317/2025 could be permitted to canvass his plea before this Court and

based on the said direction, the said individual has submitted his written arguments.

50. Learned counsel appearing for the Mohammed Abubackker, who seeks impleadment as a respondent in the present petition submitted that the grant was made for mosque charity at Tirunelveli of Khanumiya Sahib Mosque in the Salivahana Era 1684 (AD 1712) for *'Sarvamanyam for Masjid Dharma'*, which clearly shows that the properties were dedicated for the 2nd respondent/Wakf Board and that the wakf is permanent in nature.

51. It is the further submission of the learned counsel that the Inam Register of Nanguneri, Tirunelveli for the years 1865 and 1866 would clearly reveal that the title deeds and records clearly establish that the properties belong to wakf and that it is a Devadayam and no sanad for the wakf. It is the further submission of the learned counsel that the proforma of the wakf clearly show that the land is a land inam devadayam for the support of the Pallivasal and that the grant is permanent and not hereditary and shows that the donor is not known. It is therefore the submission of the learned counsel that the title deed for the wakf is in existence from the year 1865 itself and, therefore, the wakf has got title to the properties.

52. It is the further submission of the learned counsel that the as per the Wakf Proforma, the petition properties belong to the wakf and it has got pre-existing title over the properties even before independence. Further, the findings in O.S. No.49 of 1952 clearly show that the Ex.A-1 was prepared much prior to the enactment of Act 30/1947 as there was no contemplation of enactment of Act 30/1947. A further finding has also been recorded therein that the State had accepted in the written statement that the grant to the Pallivasal was by an ancient native ruler, which formed the basis for affirmation of the authenticity of the copper plate. It is the further submission of the learned counsel that at the time of inam enquiry, the authenticity of the copper plate was recognized and confirmed so as to establish that the title to the property stood vested in the Pallivasal. Therefore, unless the said findings are dislodged in a manner known to law, the copper plate grant establishes that the properties belonged to the wakf and it cannot be termed to be fake.

53. It is the further submission of the learned counsel that in O.S. No. 49/1952, there is a clear finding that even before the year 1818, viz., before the inam settlement came into being, it has been the case of the trustees of the mosque that there was a grant, which endowed the properties on the

mosque and also governed in terms of succession of trusteeship. Further, there is also a clear recording in the inam settlement enquiry that in the Fair Inam Register no Sanad was produced. Further, it has been held in the judgment in O.S. No.49/1952 that inam settlement was in the year 1865 and that the printed papers reveal that litigation was going on for succession to the trusteeship as early as from 1850 and, therefore, nobody would have cared to appear before the settlement officer. In this backdrop, it is the submission of the learned counsel that the inam settlement register ought to have been given more credence by the settlement officer before rejecting the patta for the Pallivasal and the error committed by the Settlement Tahsildar as confirmed by the Appellate Tribunal was rightly taken note of by the Wakf Tribunal while dealing with O.S. No.299/2011 which has resulted in the judgment and decree, which is perfectly in order.

54. It is the further submission of the learned counsel that the State had contended that the suit properties were taken over by the Government in the year 1951 under the Inam Abolition Act vide G.O. No.2839 dated 31.10.1951, whereinafter, according to the revision petitioner, the lands vest with the Government. It is the submission of the learned counsel that in the written statement, the State had submitted that the lands were notified under the

Tamil Nadu Inam Estates (Abolition & Conversion into Ryotwari) Act, 1963. However, the said Act, 1963 came into force only in the year 1964 and such being the case, on the basis of Act, 1963, there could be no Government Order preceding in point of time. Further, it is the submission of the learned counsel that though the State had submitted that the lands vested with the Government based on G.O. No.2839 dated 31.10.1951, however, the said Government Order has not been placed before the Court and that the provision of law under which the lands vested with the Government has also not been clearly spelt out. In this backdrop, it is the submission of the learned counsel that Act, 1963 having come into force only in the year 1964, there was no possibility for the Government to take over the suit property under Act, 1963 even in the year 1951.

55. It is the further submission of the learned counsel that though the Deputy Tahsildar, who was examined as D.W.1 in the suit, during cross-examination has deposed that in the year 1951 Inam Abolition Act was known as Madras Estate Act and that the Government Order has been issued under the said Act, however, there is no material filed evidencing the said in the form of Government Order and further the 1951 Act is an amendment Act to the Tamil Nadu Estates (Abolition & Conversion into Ryotwari) Act, 1948 and it

does not pertain to inam estates and further the lands granted to the Pallivasal are not inam estates as held under O.S. No.49/1952 and, therefore, the said deposition has been rightly negatived by the Wakf Tribunal.

56. It is the further submission of the learned counsel that inam lands given for any religious charity is not covered under the purview of the Settlement Act and the lands in the nature of ryots alone falls under the purview of the Settlement Act. Further, it is submitted that once a Wakf always a Waks and, therefore, the grant made becomes the properties of the wakf and the character of the wakf does not change irrespective of the person manning the wakf and all the aforesaid aspects have been rightly appreciated by the Wakf Tribunal while passing the impugned judgment and decree which does not require any interference at the hands of this Court.

57. In support of the aforesaid submissions, learned counsel placed reliance on the following decisions :-

20. *Sayyed Ali & Ors. – Vs - A.P. Wakf Board, Hyderabad & Ors. (AIR 1998 SC 972);*
21. *Narayan Bhagwantrao Gosavi Balajiwale – Vs – Gopal vinayak Gosavi & Ors. (AIR 1960 SC 100);*
22. *Roman Catholic Mission & Anr. – Vs – State of Madras & Ors. (CDJ 1966 SC 104);*

23. *C.Periaswami Goundan & Ors. – Vs – Sundaresa Iyer & Ors. (CDJ 1964 SC 052);*
24. *Ayyankutty Gounder (died) & Ors. – Vs – Revenue Divisional Officer, Collector's Office, Salem & Ors. (2009 (7) MLJ 335);*
25. *The Addl. Chief Secretary/Commissioner, Land Administration (I/c), Chennai & Ors. – Vs – S.Mariammal & Ors. (CDJ 2018 MHC 416)*

58. Learned Amicus, who was appointed by this Court to assist this Court in forming an opinion with regard to the manner in which the contentions put forth by the parties have to be looked at, while took this Court through the various provisions of law also placed the following decisions before this Court covering the fact situation, as arising in the present case :-

26. *State of Tamil Nadu – Vs – Ramalinga Swamigal Madam (1985 (4) SCC 10);*
27. *Aliyathammuda Beethathebiyyappura Pookoya & Anr. – Vs – Pattakal Cheriyakoya & Ors. (2019 (16) SCC 1);*
28. *KSL Industries Ltd. – Vs – Arihant Threads Ltd. & Ors. (2015 (1) SCC 166);*
29. *Mumtaz Yarud Dowla Wakf – Vs – Badam Balakrishna Hotel Pvt. Ltd. & Ors. (2023 SCC OnLine SC 1378);*
30. *Raghubhushana Tirthaswami & Anr. – Vs – Vidiavaridhi Tirthaswami & Anr. (1916 SCC OnLine Mad 495 :: AIR 1917 Mad 809)*

59. This Court gave its careful consideration to the submissions advanced, in vehemence, by the learned counsel appearing on either side and perused the materials available on record as also the decisions relied on, on behalf of the parties, including the decisions relied on by the learned Amicus.

60. Before this Court proceeds to analyse the materials placed before it, it would be trite to reiterate the power of this Court under its revisional jurisdiction by referring to the decision of the Apex Court in *Pattakal Cheriyakoya case (supra),* wherein the Apex Court has reiterated the principles with regard to the power of the High Court under its revisional jurisdiction as under :-

> *"12. It is well settled that ordinarily, while revisional jurisdiction does not entitle the High Court to interfere with all findings of fact recorded by lower Courts, the High Court may correct a finding of fact if it has been arrived at without consideration of material evidence, is based on misreading of evidence, is grossly erroneous such that it would result in miscarriage of justice, or is otherwise not according to law (see the decision of the Constitution Bench of this Court in Hindustan Petroleum Corporation Ltd v. Dilbahar Singh, (2014) 9 SCC 78). Importantly, the scope of such revisional jurisdiction is wider when the High Court is vested with the power to examine the legality or propriety of the lower Court's order under the statute from*

which the revisional power arises. In such a situation, the High Court may also examine the correctness of findings of fact, and reappraise the evidence (see Ram Dass v. Ishwar Chander, (1988) 3 SCC 131). It is in this perspective that the argument of the appellants must be considered."

61. A suit in O.S. No.49/1952 came to be filed by the Pallivasal seeking the relief of declaration that the villages set out in the schedule to the plaint are not estates under the Madras Estates Land Act, that all the lands in the villages are absolute iruwaram pannai lands and not 'ryoti' lands, or in the alternative that the lands held are service tenure lands coming within the definition of Section 3 (16)(c) of the Estates Land Act and therefore not ryoti lands and that the Estates Land (Reduction of Rent) Act (Act XXX of 1947) is not applicable to the lands in the villages and for an injunction restraining the 1st defendant from collecting rents or taking any action under Madras Act XXX of 1947 and restraining the 1st defendant from interfering with the plaintiffs' collection of income, profits, rent, etc., from the tenants of the villages and for costs of suit.

62. The aforesaid suit was the off-shoot of a dispute between the Pallivasal and the petitioner herein pertaining to large tracts of land, which

were the subject matter of the said suit, which were, according to the Pallivasal, lands granted under a Copper plate by Viswanatha Naicker Vijayaranga Chockanatha Naicker son of Rang Krishna Muthu Virappa Naicker and grandson of Chockanatha Naicker of the Kashyapa Gotra for the purpose of mosque charity for Khanumiya Sahib Pallivasal, Tinnevelly. The said copper plate was given in the month of Karthigai of the year Nandana, Salivahana Era 1684 during the reign at Ganagiri of Srimad Rajadhiraja Raja Sri Virapratapa Sri Vira Venkata Deva Maharaya.

63. Upon considering the submissions and appreciating the oral and documentary evidences placed before it, the trial court decreed the suit as prayed for with costs to be paid by the petitioner herein. Against the said judgment and decree, which was passed on 8.3.1955, no appeal has been preferred by the State/revision petitioner herein and the findings recorded therein, thus, attained finality.

64. In the backdrop of the aforesaid factual position, a careful perusal of the entire matrix reveals that the issue revolves around the copper plate grant, which is alleged to have been given by the then Ruler of Madurai to Khanumiya Sahib Mosque in Salivahana 1634 (A.D. 1712). The grant,

according to the 1st respondent is an absolute grant of the property mentioned as *"Sarvamanyam for Masjid Dharmam"*. It is the case of the 1st respondent that since the day of grant, the 1st respondent/Pallivasal is in possession of the said lands and it is used for the carrying out the religious activities as outlined in the copper plate grant.

65. According to the Pallivasal, their title and possession was put under a cloud, which prompted the filing of the suit in O.S. No.49/1952 before the Subordinate Court, Tirunelveli. The main relief sought for in the said suit, which is relevant for the issue on hand, is extracted hereunder :-

> *"Suit for a declaration that the villages set out in the schedule to the plaint are not estates under the Madras Estates Land Act, that ll the lands in the villages are absolute iruwaram pannai lands and not 'ryoti' lands, or in the alternative that the lands held are service tenure lands coming within the definition of Section 3 (16)(c) of the Estates Land Act and therefore not ryoti lands and that the Estates Land (Reduction of Rent) Act XXX of 1947 is not applicable to the lands in the villages and for an injunction restraining the 1st defendant from collecting rents or taking any action under Madras Act XXX of 1947 and restraining the 1st defendant from interfering with the plaintiff's collection of income, profits, rent, etc., from the tenants of the villages and for costs of suit."*

66. It is to be noted that the suit was laid against the State, who was the first defendant and defendants 2 to 7, who were alleged to be tenants under the Pallivasal. In the suit, the trial court while framed as many as 13 issues, four issues were of main concern, which related to whether Rahmathpuram with its hamlet Anthirathikudiyiruppu and Islapuram with its hamlet Lakshmipuram and Anakarai are estate under the Estates Land Act; (ii) whether the grant was of the whole village; (iii) whether both the warams belong to the plaintiff in all the lands of the said village; and (iv) whether the said lands in the village are ryoti lands.

67. Answering the said questions, the trial court held that the lands given to the Pallivasal does not come within the meaning of the term 'estate' as defined under the Estates Land Act and that the grant made was of certain parcels of land and it does not pertain to the whole named villages and that both the warams belong to the Pallivasal and that the lands for which grant was given are not ryoti lands. To arrive at the said finding, reliance was placed on Ex.A-1, the printed copy of the Telegu Copper Plate granted to the Pallivasal by the then ruler of Madurai Samasthanam. The recitals in Ex.A-1 are very material for considering the claim made herein, the relevant portion of which

is culled out in the judgment in O.S. No.49/1952 and the said portion is quoted hereunder :-

> *"9. Ex.A-1 shows that the nanja and punja lands were grnted as free gift in Vijiapati territory held by ryots in Tinnevelly attached to Madura Samasthanam, ruled over by and on behalf of Rayar Avergal. The boundaries of the Kalladi nanja land and Maravupasi punja land of 25 kottahs are : West of tirugulam north of perungulam Water spread.*
>
> *10. Another 50 kottahs of seed land of Kusakkulam Punja with boundaries : East of river, south of Urumangulam Kalluppani and the boundary stone of that tank, west of Viramangalam boundary Urumangulam alternate channel Pulimangulam western alternate channel and the big Palmyra trees of that place and east of Kusundampatti and Pudupatti and north of the western road had been granted. The grantee was directed to reconstruct the lake and allow people to settle there.*
>
> *11. The grant included nanja and punja lands within the above said boundaries together with Palmyra topes, proprietory income miscellaneous topes, wells and all other appurtenances relating thereto. The grant also includes sarvamanyam for the mosque as also the taxes, etc., payable by the weavers and other ryots whom the grantee may allow to settle to the south of the mosque and to the west of old Shandi Road and the South tope at Tirunevelly. It was further enjoined in the grant that the grantee has to live happily holding and enjoying the said properties as*

long as the sun and moon last and from generation to generation."

(Emphasis Supplied)

68. From the above, it is evident that the lands have been granted for the purpose of charity to the mosque for doing Masjid Dharmam and that it is to be passed on from generation to generation till the sun and the moon last. Elaborating on the same, the court below had held that Ex.A-1, the transcript of the copper plate was prepared in the year 1925, which is much prior to the enactment of Act 30/1947 and, therefore, there would not have been any contemplation that Ex.A-1 was prepared to meet the contingency as would befall under the provisions of Act 30/1947. A further finding has also been rendered that the State of Madras, in their written statement had clearly accepted that the grant was by an ancient native ruler for the support of the Pallivasal. As already stated above, the said findings have not been put to test in appeal.

69. From the aforesaid finding in O.S. No.49/1952, it is categorically held that the grant was true and genuine and Ex.A-1, the extract of the copper plate is a genuine document through which the Pallivasal was granted the lands for the purpose of charity. Even for a passing moment, this Court is not

venturing into the genuineness of Ex.A-1, the copper plate grant, or the finding recorded therein, as no challenge has been made to the said finding, but only pointing out that the findings recorded in O.S. No.49/1952 are based on sound and cogent reasoning and does not leave much to be doubted with regard to the veracity of the copper plate grant.

70. At the risk of repetition, it is to be pointed out that the judgment and decree in O.S. No.49/1952, dated 8.3.1955 was not put to test in appeal by the State and, therefore, the judgment and decree in O.S. No.49/1952 attained finality. The whole case of the revision petitioner is predicated upon the Government Order in G.O. No.3082 dated 20.10.1966 published in the State Gazette No.52, in and by which the State, in exercise of powers conferred by sub-section (4) of Section 1 of the Madras Inam Estates (Abolition & Conversion into Ryotwari) Act, 1963, had taken over the lands in the inam estates of Islapuram (including hamlets Lakshmipuram and Anaikarai), Rahmatpuram (including hamlet Anthrathikudiyiruppu and Tnirujeermadam. Only on the basis of the said vesting of lands through the aforesaid Government Order, the revision petitioner herein claims that the lands are ryoti lands and that the Pallivasal has no right over the said property, as they are poramboke lands and that they do not belong to the wakf and, therefore,

they cannot claim patta under Act, 1963. It is further contended that the vesting of the lands with the Government under Act, 1963 had been accepted by the Pallivasal and they have moved the Settlement Tahsildar for ryotwari patta, which has been rejected, would fortify the stand of the revision petitioner that the said lands are ryoti lands and would squarely stand attracted under Act, 1963.

71. The said contention is countered by the respondents contending that the title to the property by way of grant stood established as early as on 8.3.1955 by means of the judgment and decree passed in O.S. No.49/1952 and the said judgment and decree having attained finality, the same not being challenged by the State, the State is bound by the said judgment and decree. Further, it is contended that Act, 1963 is applicable only to inam estates and the lands, which have been granted under the copper plate being held to be *'Sarvamanyam for Masjid Dharmam'* and given by the then ruler of Madurai Samasthanam to the wakf, the lands would always be the property of the wakf and that the said grant having been held to be not an estate under Estates Land Act, as they are not of the entire village, but only relating to parcels of land, the said grant cannot fall within the purview of Estates Land Act or for that matter under the subsequent enactment, viz., Act, 1963. It is further

contended by the respondents that G.O. No.2839 dated 31.10.1951 under which the suit properties were alleged to have been taken over by the Government under Act, 1963 cannot survive the test of reasonableness for the reason that Act, 1963 came into force during 1964 and, therefore, G.O. No. 2839 dated 31.10.1951 cannot rely on Act, 1963, which came into force later in point of time to claim vesting of the lands with the Government. Further, the said Government Order has also not been placed before the Court to substantiate the contention.

72. 'A' Register dated 14.6.1970 is placed before the Court by the revision petitioner to contend that the suit lands are poramboke lands, as entered in the said register. However, the Inam Fair Register of the year 1865 & 1866, which has been placed by the 1st respondent reveals that the lands were given for Masjid Dharmam as Sarvamanyam tax free.

73. Insofar as the character of the lands, whether they are ryoti lands or that it falls within the meaning of inam village, this Court is not venturing into considering the same for the reason that a finding has been rendered by the trial court in O.S. No.49/1952, which finding, till date, has not been challenged by the petitioner herein and the present revision petition not being against the

said finding, this Court under its revisional jurisdiction cannot go beyond its jurisdiction to give any finding on the same.

74. In this scenario the question that falls for determination is whether Act, 1963, in and by which the lands were alleged to have been taken over by vesting by issuance of a Government Order, though the said order not having been placed before the Court, is sustainable.

75. A copy of Government Order in G.O. No.3082 dated 20.10.1966 is placed before the Court by the revision petitioner in which the Inam Estates of Islapuram (including hamlets Lakshmipuram and Anaikarai) and Rahmatpuram (including hamlet Anthrathikudiyiruppu) are vested with the Government under Act, 1963. Prior to the said Government Order, there are no materials evidencing that the lands are poramboke lands and stood vested with the Government, though a Government Order in G.O. No.2839 dated 31.10.1951 has been relied upon by the revision petitioner in O.S. No.49/1952. Further, a Government Order in G.O. Ms. No.1388 dated 20.10.1966 is also alleged to have been issued by the Government taking over the subject lands, which, according to the revision petitioner, prompted the 1st respondent/Pallivasal to file an application before the Settlement Tahsildar No.1, Kovilpatti, seeking

issuance of patta. But even the said Government Order is not annexed in the typed set of documents.

76. It is to be pointed out that a judgment and decree had come to be passed in O.S. No.49/1952 on 8.3.1955 in which the State, who is the revision petitioner herein, is a party. The decree was in favour of the 1st respondent/Pallivasal wherein a categorical finding has been rendered that the lands, which have been given as *'Sarvamanyam for Masjid Dharmam'* by the then rulers of Madurai Samsathanam are not inam estates but only parcels of lands and, therefore, the said lands cannot be held to be inam estates within the meaning of Act, 1908. On the date when the judgment and decree came to be passed, Act, 1908 covered the field insofar as estate lands are concerned, though Tamil Nadu Estates (Abolition & Conversion into Ryotwari) Act, 1948 was in force, but there is no whisper that the lands stood vested under the Tamil Nadu Estates (Abolition & Conversion into Ryotwari) Act, 1948. Further, Act, 1948 covered only the estates and not inam estates and only in the year 1963 the Tamil Nadu Inam Estates (Abolition & Conversion into Ryotwari) Act, 1963 came to be enacted in and by which the inam estates, that were notified in the official gazette, stood vested with the Government on and from the date of the said notification. In such a backdrop, neither G.O. No.

1388 dated 20.10.1966, which is relied on by the revision petitioner in their written statement in and by which the lands were alleged to have been taken over, nor G.O. No.3082 dated 20.10.1966 which is the gazette notification relating to the vesting of Islapuram and Rahmatpuram including the hamlets associated with it could have any force with regard to taking over the said lands as inam estates, when there is a clear finding in O.S. No.49/1952 that the lands, which have been granted as *sarvamanyam* does not fall within the ambit of Inam Estates as provided for under Act, 1908. In the absence of any appeal against the judgment and decree in O.S. No.49/1952, the revision petitioner has no legs to claim that the lands, which have been granted by the then ruler of Madurai Samasthanam to the Pallivasal could be taken over under Act, 1963 as inam estates. Further, it is to be pointed out that when the grant has not been held to be inam estates under Act, 1908 unless the said finding is set aside in a manner known to law, the vesting claimed by the revision petitioner is wholly arbitrary and unjust.

77. It is the further contention of the revision petitioner that once Act, 1963 came into existence, any finding and decision based on Act, 1908 or Act 30/1947 would not have any legal validity as by application of Section 3 (a) and (b) of Act, 1963, all the decisions taken under Act, 1908 and Act 30/1947 are

repealed and, therefore, the reliance placed by the Wakf Tribunal in its judgment and decree in O.S. No.299/2011 upon Act, 1908 and Act 30/1947 to hold that the 1st respondent/Pallivasal would have conclusive title is grossly erroneous.

78. The said contention, even on the face of it is not sustainable as both sub-sections (a) and (b) of Section 3 of Act, 1963 uses the expression *'inam estate'* and only such of those enactments, which are applicable to inam estate have been deemed to have been repealed. In the present case, as held above, even as early as in O.S. No.49/1952, there is a categorical finding that the lands, which have been granted to the Pallivasal do not come within the ambit of inam estate as the entire village has not been given as grant, but only parcels of land and, therefore, the application of Act, 1908 and Act 30/1947 have been held to be not applicable. The said finding having not been challenged in the manner known to law and having attained finality, the repeal sought to be made u/s 3 (a) and (b) of Act, 1963 would only be in relation to inam estate and operation of the provisions of law from the said date would not be relatable to any other lands, which fall outside the realm of inam estates. In the present case, the lands, which have been granted to the Pallivasal having held to be not falling within the ambit of inam estate, the

repeal sought to be introduced through the above provision under Section 3 (a) and (b) of Act, 1963, would not be attracted to the case on hand, moreso, the judgment and decree in O.S. No.49/1952 having already attained finality and no challenge has been made to the findings rendered therein. Therefore, the contention advanced in this behalf does not merit consideration and deserves to be rejected.

79. Furthermore, it is to be pointed out that the stand of the State that the decree in O.S. No.49/1952 would not be binding on the State as by the subsequent enactment, viz., Act, 1963, the lands were taken over by the Government and declared as non-inam lands also does not merit consideration. When a finding has been rendered that the lands were grants by the ruler of Madurai Samasthanam to the Wakf and the said stand has also been accepted by the State in the suit in O.S. No.49/1952, under what provision of law the State claims a judgment and decree to be not binding on the State is not spelt out. If by application of the provisions of Act, 1963, any order passed anterior in point of time is held to be not binding on the State, then the sanctity of the judgment and decree passed in any matter anterior in point of time could be made a nullity by a State by enacting a new law and only for that purpose, it has been consistently held, in general, that a new law

would only have prospective operation and not retrospective operation. Such being the case, Act, 1963, would only have prospective operation and it cannot be applied retrospectively to make a judgment and decree a nullity as any such finding given would result in unsettling the issues in many cases, which have been finalised.

80. In this regard, reference can be had to the decision of the Apex Court in *Mumtaz Yarud Dowla case (supra)*, wherein, the Apex Court has held thus :-

> *"20. Neena Aneja and Another v. Jai Prakash Associates Ltd., (2022) 2 SCC 161, "58. SEBI argued before this Court that a change of the forum for trial was a matter of mere procedure and would, therefore, be retrospective, there being no express or implied intent either in the 2002 and 2014 Amendments that the amendments were intended to be of prospective effect. J.S. Khehar, J. speaking for the two-Judge Bench of this Court adverted to the decisions inter alia in New India Assurance [New India Assurance Co. Ltd. v. Shanti Misra, (1975) 2 SCC 840] , Ramesh Kumar Soni [Ramesh Kumar Soni v. State of M.P., (2013) 14 SCC 696 : (2014) 4 SCC (Cri) 340] and Hitendra Vishnu Thakur [Hitendra Vishnu Thakur v. State of Maharashtra, (1994) 4 SCC 602 : 1994 SCC (Cri) 1087] , and observed in that context : (Classic Credit case [SEBI v. Classic Credit Ltd., (2018) 13 SCC 1 : (2019) 1 SCC (Cri) 431] , SCC pp. 67-68,*

para 49)

"49. … In our considered view, the legal position expounded by this Court in a large number of judgments including New India Assurance Co. Ltd. v. Shanti Misra [(1975) 2 SCC 840] ; SEBI v. Ajay Agarwal [(2010) 3 SCC 765 : (2010) 2 SCC (Cri) 491] and Ramesh Kumar Soni v. State of M.P. [(2013) 14 SCC 696 : (2014) 4 SCC (Cri) 340] , is clear and unambiguous, namely, that procedural amendments are presumed to be retrospective in nature, unless the amending statute expressly or impliedly provides otherwise. And also, that generally change of "forum" of trial is procedural, and normally following the above proposition, it is presumed to be retrospective in nature unless the amending statute provides otherwise. This determination emerges from the decision of this Court in Hitendra Vishnu Thakur v. State of Maharashtra [(1994) 4 SCC 602 : 1994 SCC (Cri) 1087] ; Ranbir Yadav v. State of Bihar [(1995) 4 SCC 392 : 1995 SCC (Cri) 728] and Kamlesh Kumar v. State of Jharkhand [(2013) 15 SCC 460 : (2014) 6 SCC (Cri) 489] , as well as, a number of further judgments noted above."

59. The above observations indicate the clear view of this Court that:

59.1. In the absence of a contrary intent express or implied, procedural amendments are presumed to be retrospective.

59.2. A change in the forum of a trial is a procedural matter.

59.3. Since a change of forum is procedural, a statute which brings about the change is presumed to be retrospective in the absence of a contrary intent.

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EFFECT OF REMOVING THE BASIS OF JUDGMENT

30. On the question of the effect of removal of the basis of the judgment, once again, the distinction between a procedural and substantial law has to be kept in mind. An adjudicating forum being a product of a procedural right has to come under retrospective operation when an amendment is introduced to cure a defect which paved the way for a decision of the Court in holding otherwise. Madras Bar Association v. Union of India and Another, (2022) 12 SCC 455,

"50. The permissibility of a legislative override in this country should be in accordance with the principles laid down by this Court in the aforementioned as well as other judgments, which have been culled out as under:

50.1. The effect of the judgments of the Court can be nullified by a legislative act removing the basis of the judgment. Such law can be retrospective. Retrospective amendment should be reasonable and not arbitrary and must not be violative of the fundamental rights guaranteed

under the Constitution. (Lohia Machines Ltd. v. Union of India [Lohia Machines Ltd. v. Union of India, (1985) 2 SCC 197 : 1985 SCC (Tax) 245]).

50.2. The test for determining the validity of a validating legislation is that the judgment pointing out the defect would not have been passed, if the altered position as sought to be brought in by the validating statute existed before the Court at the time of rendering its judgment. In other words, the defect pointed out should have been cured such that the basis of the judgment pointing out the defect is removed.

50.3. Nullification of mandamus by an enactment would be impermissible legislative exercise (see S.R. Bhagwat v. State of Mysore [(1995) 6 SCC 16 : 1995 SCC (L&S) 1334]). Even interim directions cannot be reversed by a legislative veto (see Cauvery Water Disputes Tribunal [Cauvery Water Disputes Tribunal, In re, 1993 Supp (1) SCC 96 (2)]) and Medical Council of India v. State of Kerala [(2019) 13 SCC 185] .

50.4. Transgression of constitutional limitations and intrusion into the judicial power by the legislature is violative of the principle of separation of powers, the rule of law and of Article 14 of the Constitution of India." (emphasis supplied) RASHID WALI BEG (SUPRA)"

81. Further, when the lands having been held to be grants for religious purposes, which has been granted to the Pallivasal, the State Government cannot take over the said lands by declaring them as non-inam lands, as Sections 3 to 6 of the Wakf Act with relation to preparing a proforma and gazetting the same have been fulfilled as early as on 13.5.1959. Therefore, the contention raised in this behalf deserves rejection.

82. Curiously, one other contention is advanced by the revision petitioners to the effect that the Inam Tribunal's decision with regard to patta sought for by the Pallivasal has been rejected and no appeal or revision was filed by the Pallivasal and the said order attained finality u/s 71 of Act, 1963 and, therefore, the same cannot be questioned by filing a fresh suit.

83. The revision petitioner is blowing hot and cold over the above an issue which is *pari materia* to their claim as well. A judgment and decree had come to be passed in O.S. No.49/1952, which was against the State and the State did not think it fit to challenge the findings rendered therein and the said findings attained finality. Thereafter, Act, 1963 had come to be passed more than eight years after the said judgment and decree and, thereafter, the Settlement Tahsildar was seized of the matter on the basis of the petition by

the Pallivasal seeking patta, which having been rejected resulted in the appeal, which has also been rejected. The findings therein are only based on the provisions of law under Act, 1963, which, as already held, are not applicable to the case on hand, as the issue is covered only under Act, 1908 and Act 30/1947. The issue was answered in favour of the Pallivasal in O.S. No. 49/1952 and the said findings attained finality as no challenge was made to the said findings. When the State had not thought it fit enough to challenge the said findings and had allowed it to attain finality, it cannot turn back and claim that the Inam Tribunal's decision cannot be questioned as it attained finality u/s 71 of Act, 1963 as no appeal or revision was filed. What is applicable to the Pallivasal is equally applicable to the State as well and the State cannot tie the Pallivasal under a scenario, which is identically similar to the State by virtue of the earlier decree in O.S. No.49/1952.

84. Further, it is also to be pointed out that Act, 1963 came into force in the year 1964 and G.O. No.1388 dated 20.10.1966 and the Gazette publication vide G.O. No.3082 dated 20.10.1966 are posterior in point of time to the findings recorded in O.S. No.49/1952 and unless the said findings are set aside in the manner known to law, the said Government Order will have no legs to stand, as once the revision petitioner, as a party in the suit in O.S. No.49/1952

had accepted that the lands were given in grant to the wakf, the revision petitioner cannot now turn back and claim that the said lands are Government poramboke lands and the entry in the 'A' Register has to be taken as the gospel truth.

85. The entries in the 'A' Register are of the year 1974, whereas the entries in the Fair Inam Register dates back to the year 1865 and 1866 in which the grant to the Pallivasal is recorded. The grants have been noted as grants for the wakf and the said grants have also been fairly admitted by the State in O.S. No.49/1952 and, therefore, the lands, which have been given in grants to the wakf cannot be taken over by the Government by issuance of a Government Order, as it is clear that the said lands are grants to the wakf and are not inam estates coming within the provisions of Act, 1908 or Act, 1963.

86. The sanctity of Inam Fair Register could be derived from the decision of the Apex Court in *Subramania Gurukkal case (supra),* wherein the Apex Court, relying on its earlier decisions, held thus :-

> *"39. With this, we proceed to the entries in the Inam Fair Register. It cannot be gainsaid that great value must be attached to the entries contained therein. [1991] Supp. 11 SCC 228 (supra) observed at page 242 para 13 as under;*

"Therefore, the entries in the IFR are great acts of the State and coupled with the entries in the survey and settlement record furnish unimpeachable evidence."

40. Similarly in , Jammi Raja Rao v. Sri Anjaneyaswami Temple Valu etc., at page 1117 in paragraph 19 it was held:

"We are unable to hold that the High Court was not justified in preferring to place reliance on the entries in the Inam Register (Exs.B-1, B-2, B-4 and Bo) as compared to Ex.A-4 and Ex.A-6 which are documents executed by the members of the appellant's family and Ex.A-9, the register prepared by Turanga Rao, the father of the appellant after his appointment as a trustee under the 1927 Act. Laying stress on the importance of the entries in the Inam Roisters, the Judicial Committee of the Privy Council, in Arunachellam Chetty v. Venkatachalapathi Guruswamigal (1919) 46 Ind App 204: AIR 1919 PC 62 has observed:

It is true that the making of this Register as for the ultimate purpose of determining whether or not the lands were tax free. But it must not be forgotten that the preparation of the Inam Register was a great act of State, and its preparation and contents were the subject of much consideration under elaborately detailed reports and minutes. It is to be remembered that the Inam Commissioners through their officials made inquiry on the spot, heard evidence and examined documents, and with

regard to each individual property the Government was put in possession not only of the conclusion come to as to whether the land was tax free, out of a statement of the history and tenure of the property itself.' (pp. 217-218) (of 1A): (at p.65 of AIR).”

87. True it is that the Pallivasal had gone before the Settlement Tahsildar No.1, Kovilpatti seeking issuance of patta, which has been rejected and the appeal filed against the said rejection has also been upheld by the Appellate Tribunal. However, the approach of the Pallivasal seeking grant of patta before the Settlement Tahsildar cannot be put against the Pallivasal as also the judgment and decree in O.S. No.49/1952 to claim that even the Pallivasal had accepted the nature and character of the lands which alone prompted the Pallivasal to approach the Settlement Tahsildar seeking patta. When the lands have been granted as *‘Sarvamanyam for Masjid Dharmam’* there was no need for the Pallivasal to have approached the Settlement Tahsildar seeking patta and ignorance of the Pallivasal in approaching the Settlement Tahsildar cannot be put against the Pallivasal to claim that the Pallivasal was very much aware that the lands were ryoti lands falling within the inam estate. The orders of the Settlement Tahsildar and the Appellate Tribunal, which formed the basis for the rejection of very many

representations submitted by the Pallivasal seeking issuance of patta do not cast a legal embargo so as to tie the hands of this Court from granting any particular relief to the Pallivasal in respect of the grant given to the Pallivasal by the then ruler of Madurai Samasthanam.

88. In this regard, useful reference can be had to the decision of the Apex Court in *Ramalinga Swamigal Mutt case (supra)* with regard to the jurisdiction of the Civil Court vis-a-vis orders passed in revenue proceedings on the basis of inquiry, the relevant portion of which is as under :-

> *"13. Secondly, the principle indicated in the second proposition enunciated in Dhulabhai's case (supra) requires that the statute, when it creates a special right or liability and provides for its determination, should also lay down that all questions about the said right or liability shall be determined by the Tribunal or authority constituted by it, suggesting thereby that if there is no such provision it will be difficult to infer ouster of the Civil Court's jurisdiction to adjudicate all other questions pertaining to such right or liability. Since from the notified date all the estate vests in the Government free from encumbrances) it must be held that (all the lands lying in such estate including private land of land-holder and ryoti land cultivated by a ryot would vest in the Government and the Act could be said to be creating a new right in favour of a land-holder (re: his private lands) and a ryot (re: ryoti land) by granting a*

ryotwari patta to them under ss. 12 to 15 and s. 11 respectively, and the Act provides for determination of such right by the Settlement Officer. Question is whether the Act also provides for determination of all questions about such right by the Settlement Officer ? On this aspect, as has been indicated earlier (unlike in the case of an application for a ryotwari patta by a land- holder under s. 12, 13 or 14 where an inquiry into the nature or character of the land and the history thereof is expressly directed to be undertaken by virtue of s. 15 in the case of an application for a ryotwari patta by a ryot under s. 11 there is no express provision for any inquiry into the nature or character of the land before granting or refusing to grant such patta to the applicant. It is true that some inquiry is contemplated if s. 11 is read with proviso to cl. (d) of s. 3 but even then there is no provision directing inquiry for the ascertainment of the nature of the land, namely, whether it is a ryoti land or communal land but it is obvious that impliedly a decision on this aspect of the matter must be arrived at the Settlement Officer before he passes his order on either granting or refusing to grant such patta. Obviously such decision rendered impliedly on this aspect of the matter will be an incidental one and arrived at in the summary manner only for the purpose of granting or refusing to grant the patta. A summary decision of this type in an inquiry conducted for revenue purposes cannot be regarded as final or conclusive so as to constitute a bar to a Civil Court's jurisdiction adjudicating upon the same issue arising in a suit for injunction filed by a ryot on the

basis of title and/or long and uninterrupted possession. Since a fullfedged inquiry on the nature or character of land is provided for under s. 15 in the case of an application by a land-holder the character of the Settlement Officer's decision on such issue may be different but that question is not before us.

Thirdly, having regard to the principle stated by this Court while enunciating the first proposition in Dhulabhai's case (supra) it is clear that even where the statute has given finality to the orders of the special tribunal the civil court's jurisdiction can be regarded as having been excluded if there is adequate remedy to do what the civil court would normally do in a suit. In other words, even where finality is accorded to the orders passed by the special tribunal one will have to see whether such special tribunal has powers to grant reliefs which Civil Court would normally grant in a suit and if the answer is in the negative it would be difficult to imply or infer exclusion of Civil Court's jurisdiction. Now take the case of an applicant who has applied for a ryotwari patta under s. 11 staking his claim thereto on the basis of his long and uninterrupted possession of the ryoti land but the Settlement Officer on materials before him is not satisfied that the land in question is ryoti land; in that case he will refuse the patta to the applicant. But can he, even after the refusal of the patta, protect the applicant's long and uninterrupted possession against the Government's interference ? Obviously, he cannot, for it lies within his power and jurisdiction merely to grant or refuse to grant the patta on

the basis of materials placed before him. But such a person even after the refusal of the ryotwari patta would be entitled to protect his possessory title and long enjoyment of the land and seek an injunction preventing Government's interference otherwise than in due course of law and surely before granting such relief the Civil Court may have to adjudicate upon the real nature of character of the land if the same is put in issue. In other words since the Settlement Officer has no power to do what Civil Court would normally do in a suit it is difficult to imply ouster of Civil Court's jurisdiction simply because finality has been accorded to the Settlement Officer's order under s. 64- C of the Act."

89. Therefore, from the aforesaid decision, it is clear beyond a pale of doubt that the civil court's jurisdiction is not outsed merely because of the fact that the issue has been dealt with by the Settlement Tahsildar or the appellate authority and, therefore, the mere fact that an order has been passed by the Settlement Tahsildar, which has been confirmed by the appellate authority would not oust the jurisdiction of the civil court and the suit laid by the 1st respondent in O.S. No.299/2011 cannot be said to be not maintainable.

90. Further, it is also to be placed on record that the revision petitioner heavily relies on the decision of this Court in W.P. (MD) No.360/2012 in and by

which the Madurai Bench of this Court, vide order dated 20.07.2022 had rejected the claim of the petitioners therein for issuance of patta for the lands in S.No.723/1 to 897, Urumankulam Village, Radhapuram Taluk, Tirunelveli District. However, the said order will not in any way aid the case of the revision petitioners for the simple reason that the legal status of the petitioner therein with the Mutawalli was doubted, which prompted the Court to reject their claim for grant of patta. Further, reliance was also placed on the two judgments in O.S. Nos.49/1952 and 65/1961 with regard to the legal status of the petitioners therein. Therefore, the said decision would be of no avail to the revision petitioner.

91. The revision petitioner contends that the proforma of the wakf with regard to the grant made has not been gazetted u/s 5 of the Wakf Act and, therefore, the proforma could not be acted upon and that the said proforma would not be binding on the State. Though such a contention is advanced, notification has been issued in the gazette on 13.5.1959, a copy of which has been placed before this Court and such being the resultant position, the contention raised to the contra in this regard by the revision petitioner does not merit consideration, though the validity of the proforma insofar as the extent of the lands, which have been given in grant to the Pallivasal would be a

point in issue, which requires consideration.

92. The only issue that remains for the consideration of this Court is the extent of grant that was given to the Pallivasal by the ruler of Madurai Samasthanam on the basis of the copper plate, which had prevailed upon the court in decreeing the suit in O.S. No.49/1952 in favour of the Pallivasal.

93. Two suits, viz., O.S. No.49/1952, for the relief stated supra and O.S. No.65/1961, for a declaration that the plaintiff is the Muthawalli of Khanmiya Pallivasal and for recovery of possession of the suit properties from the defendant therein with mesne profits were filed. While the suit in O.S. No. 49/1952 was filed by the Pallivasal, the suit in O.S. No.65/1961 was filed by a third party claiming the rights of Muthawalli over the property belonging to the Pallivasal.

94. As already discussed above, O.S. No.49/1952 was decreed in favour of the Pallivasal in which a declaration was granted as prayed for, however, the suit in O.S. No.65/1961 was dismissed negativing the claim of the plaintiff therein for declaring him as the Mutawalli, wherein it has been held that his legal heirship with the Mutawalli of the Khanmiya Pallivasal has not been

established. In O.S. No.65/1961, the grant given in favour of the Pallivasal was not disturbed, except for holding that the relief of declaration for declaring the plaintiff therein as the Mutawalli and recovery of possession cannot be granted. In essence, the judgment and decree passed in O.S. No.49/1952 was not disturbed insofar as the grant of lands by the ruler of Madurai Samasthanam to the wakf for the purpose of doing religious and charitable activities.

95. As has already been held by this Court, the judgment and decree passed in O.S. No.49/1952 has since attained finality and it stands undisturbed by the passing of Act, 1963 as also Act, 1908 and Act 30/1947. Therefore, both the parties to the present *lis* are bound by the judgment and decree passed in O.S. No.49/1952. In the light of the aforestated position, this Court has to find out the extent of the grant given to the Pallivasal under the copper plate, more particularly with reference to the finding rendered in O.S. No.49/1952 vis-a-vis the claim for the extent made in O.S. No.299/2011.

96. The 1st respondent/Pallivasal claims the lands on the basis of the copper plate issued in its favour by the ruler of Madurai Samasthanam, which, as stated above, is not disputed by the State even in the suit in O.S. No.

49/1952. Therefore, the authenticity and the veracity of the copper plate is not in issue at this point and whatever is granted in the copper plate to the Pallivasal by the then ruler of Madurai Samasthanam, which is for the wakf would always be available to the Wakf as it is the consistent view of the courts that once a wakf always a wakf and, therefore, the grant cannot be taken away by the State and rightly so held in O.S. No.49/1952.

97. The grant made in the copper plate, which, for better clarity, has already been extracted supra, show that an extent of *"Kalladi nanja land and Maravupasi punja land of 25 kottahs with marked boundaries and another 50 kottahs of seed land of Kusakkulam Punja with marked boundaries"* have been provided for 'Masjid Dharmam' and the said grant also included 'Sarvamanyam' for the mosque as also the taxes. Effectively, taxes were also not levied on the mosque in relation to the lands, which were given as grant. Therefore, a total extent of 75 Kottahs (25 + 50) with marked boundaries was provided to the Pallivasal for carrying out religious and charitable activities. The aforesaid facts have been recorded in the judgment in O.S. No.49/1952, which is admitted by either side, which extent was decreed in O.S. No. 49/1952.

98. When the grant in the copper plate was provided to the Pallivasal, the Survey and Boundaries Act was not enacted, which came to be enacted only in the year 1923. Therefore, the lands did not carry any survey numbers, but were merely identified based on the boundaries, as shown in the copper plate. The said fact is not disputed by either side.

99. When it is the admitted case of the Pallivasal that an extent of 75 kottahs of land was granted through the copper plate to the Pallivasal as sarvamanyam with the specific boundaries not spelt out, but is based on a genaralised description of the boundaries, as spelt out in the copper plate, as was in vogue at that point of time, curiously, when the suit in O.S. No. 299/2011 has been laid, the survey numbers of the lands, which are claimed to have been granted through the copper plate have been furnished.

100. When this Court put a query to the parties as to what is the extent of 1 Katha/Kottah in the present day scenario so as to arrive at the extent of grant that has been given to the Pallivasal, learned counsel for the 1st respondent/Pallivasal submitted that 1 Katha/Kottah is equivalent to 1.68 acres of land, which, approximately works out to about 126 acres of land for 75 Kathas/Kottahs, which has been given under the grant to the Pallivasal.

However, to substantiate the same no material whatsoever has been placed before this Court. No details were forthcoming from the revision petitioner as also the 2nd respondent as to what is the equivalent of 1 Katha/Kottah in acres.

101. Therefore, this Court has no other option but to ascertain as to what is the extent of 75 kottahs of land that was given as grant through the copper plate, and to satisfy itself, this Court embarked on finding out the actual extent of 1 Kottah in today's scenario. A free search in *'Google'* revealed that 'Kottah' and 'Katha' are used alternatively and they mean one and the same. In Tamil Nadu, the extent of 1 Katha/Kottah in acre returned a figure of 0.03124 acre and, therefore, the extent of 75 Kathas/Kottahs of land would work out to an extent of 2.3430 acres (Two Acre Thirty Four Cents and One Thirty Square Feet). It is an admitted fact, as is also revealed through the findings in O.S. No.49/1952 that the extent of land given as grant through the copper plate is 75 Kathas/Kottahs. Therefore, the entitlement of the Pallivasal could only be to the extent of 75 Kottahs and not any more, as the Pallivasal, who is the plaintiff in O.S. No.49/1952 has also accepted the findings in the said suit, which has clearly culled out that the land given as grant to the Pallivasal is only to the extent of 75 Kathas/Kottahs.

102. However, it is curious to note that in the suit filed in O.S. No. 299/2011, the survey numbers of the lands, which are alleged to have been granted as 'Sarvamanyam' through the copper plate has been mentioned and a declaration of title to the said lands have been sought for along with recovery of possession. There is no whisper in the entire plaints relating to O.S. No.49/1952, O.S. No.65/1961 and also in O.S. No.299/2011 that any survey of the said lands were undertaken at any point of time. In fact, even the 2nd respondent, the Wakf Board, has not whispered about any survey having been undertaken of the said lands, which were given as grant. Further, the proforma filed u/s 5 of the Wakf Act with regard to the survey conducted by the Wakf also does not disclose the survey numbers of the lands. Such being the case, this Court is at a loss to understand as to how the survey numbers were identified and culled out to claim declaration of title and recovery of possession while filing O.S. No.299/2011.

103. It would not be out of context to point out here that in the grant made through the copper plate, the boundaries only are mentioned, as at that point of time, the concept of survey number for the lands did not exist. There is no whisper about when the survey was undertaken and coupled with the fact that 75 Kathas/Kottahs of land measures only to an extent of 2.3430 acres

(Two Acre Thirty Four Cents and One Thirty Square Feet), the list of survey numbers given and the extent of lands, which are claimed to be the lands that were granted through the copper plate works to a vast extent of more than 1000 acres of land, this Court is at a loss to understand as to how the said identification of the lands was made and by which authority it was made. If really there was any demarcation of land by mentioning of survey numbers at any point of time, the proforma prepared by the wakf during 1959, which has since been gazetted would have shown the survey numbers, as at that point of time, the Survey and Boundaries Act had come into force and were in operation. It would also not be out of place to note that in the order passed in Rc.K1/12304/2010 dated 25.01.2011, which is the subject matter of W.P. (MD) No.360/2012, there is a passing reference that only immediately preceding the settlement proceedings during the year 1966, the lands were surveyed and pattas were granted. In such view of the facts and circumstances, the only inference that could be drawn is that the survey numbers, which have been given in O.S. No.299/2011 cannot be held to be relatable to the lands, which were granted to the Pallivasal as grant through the copper plate as it was not demarcated by any authority, much less the Wakf Board/2nd respondent, as the gazette notification u/s 5 of the Wakf Act was made in the year 1959.

104. Further, as already aforesaid, the grant is only to an extent of 75 Kathas/Kottahs which is equivalent to 2.3430 acres (Two Acre Thirty Four Cents and One Thirty Square Feet), which is the admitted extent as per the findings recorded in O.S. No.49/1952 and, therefore, the 1st respondent/Pallivasal cannot seek for any extent more than 75 Kathas/Kottahs of land, which had been granted to them.

105. In view of the above discussion, the judgment and decree passed in O.S. No.299/2011 declaring the title to the lands as have been shown in the suit schedule as the lands, which have been granted through the copper plate, as held in O.S. No.49/1952 cannot be sustained as what has been decreed in favour of the Pallivasal in O.S. No.49/1952 is only an extent of 75 Kathas/Kottahs and nothing more. Therefore, to the extent of declaration of lands as mentioned in the decree passed in O.S. No.299/2011 by showing the survey numbers, the said portion cannot be sustained, moreso when the said judgment and decree had been passed on the basis of the judgment and decree passed in O.S. No.49/1952 and, therefore, the findings in O.S. No. 49/1952 would form the basis for deciding the extent of lands, which were given in grant to the Pallivasal.

106. For the reasons aforesaid, the judgment and decree passed in O.S. No.299/2011 is modified by issuing the following directions :-

31. The lands, which are the subject of grant under the copper plate are not lands falling under the inam estate and, therefore, would not come within the ambit of Act, 1963, the said lands would be wakf property, which had been granted to the 1st respondent/Pallivasal by the ruler of Madurai Samasthanam and would not be assessable to any tax/rent.

32. However, as aforesaid, the demarcation of the lands, which had been granted under the copper plate has not been taken up in terms with the Survey & Boundaries Act, 1923 as the proforma prepared by the wakf, which has resulted in the gazette notification u/s 5 of the Wakf Act is bereft of any particulars and, therefore, the said proforma cannot form the basis of identification of the lands so granted under the copper plate.

33. The Wakf Board is directed to take up a fresh exercise to identify the lands, which have been granted under the copper plate and prepare a fresh proforma which would be relatable only to the extent of 75 Kathas/Kottahs, which works out to 2.3430 acres (Two Acre Thirty Four Cents and One Thirty Square Feet) after calling for necessary objections from persons interested in the said lands and after considering the said objections prepare the proforma.

34. The Wakf Board is directed to prepare the proforma and forward the same to the State Government along with the objections so received and on receipt of the said proforma and objections, the Government of Tamil Nadu is directed to follow the procedure as contemplated u/s 5 of the Wakf Act to notify the proforma and act upon the same in terms of the grant given under the copper plate.

35. The aforesaid exercise of identification of lands so granted under the copper plate and forwarding of the proforma shall be undertaken by the Wakf Board/2nd respondent and completed as early as possible.

36. In view of the aforesaid order, there is no necessity to take up the memo filed by the revision petitioner for receiving additional documents.

37. This civil revision petition is allowed in part with the aforesaid observations and directions. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

107. This Court places on record its appreciation for the assistance rendered by the learned Amicus Mr.Chevannan Mohan, for the enlightening this Court with the erudite exposition of the legal position on the subject, thereby enabling this Court to render its opinion on all the facets of law relating to the issue on hand.

16.09.2025

Index : Yes / No

GLN

To

District Collector
Tirunelveli District
Kokirakulam, Tirunelveli.

M.DHANDAPANI, J.

GLN

PRE-DELIVERY ORDER IN
C.R.P. (MD) NO.2161 OF 2018

Pronounced on
16.09.2025