2026 INSC 1152

Non-Reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal No.2804 of 2024

The A.P. State Wakf Board,
(Now Telangana State Wakf Board)

.... Appellant

Versus

Syed Masood Ahmed & Anr.

.... Respondents

With

Contempt Petition (C) No.842 of 2026
In Civil Appeal No.2804 of 2024

Contempt Petition (C) No.635 of 2026
In Civil Appeal No.2804 of 2024

J U D G M E N T

K. VINOD CHANDRAN, J.

A suit for permanent injunction filed by the appellant, the Waqf Board was allowed restraining the defendants from interfering with the possession of the Waqf Board on '*Mafi Inam lands*', lying adjacent to a Mosque, which were also notified as wakf property. The decree, however, was set aside by the High Court, holding that in the absence of occupancy certificate

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under the Telangana Abolition of Inams Act, 1955, or pahanis or revenue records it cannot be said that the suit scheduled property is a wakf property, or that the respondents are in possession of the same. It was found based on ***Balkrishna Dattatraya Galande v. Balkrishna Rambharose Gupta and Ors.***[1], that an injunction restraining the defendant from interfering with the possession cannot be granted unless possession is proved by the plaintiff. The Survey Commissioner's report and the Gazette Notification were 20 years apart, while the defendants had the pattadar passbooks in respect of the suit scheduled property, as obtained by their vendors. The mere use of the words *Mafi Inam* in the pahanis submitted by the defendants cannot raise a presumption that it is a *service inam* given to a wakf institution. The decree granting injunction was set aside, affirming the possession of the defendants and the suit was dismissed, which order is impugned before us.

2. Sri K. Parmeshwar, learned Senior Counsel appeared for the appellant and Sri Naveen Pahwa, learned Senior Counsel

[1] (2020) 19 SCC 119

appeared for the respondents. The respondents also relied on ***Anathula Sudhakar v. P. Buchi Reddy***[2].

3. ***Anathula Sudhakar***[2] summarizes the law with regard to suits for prohibitory injunction relating to immovable property. It was held that when there is a mere interference with the lawful possession of the plaintiff or threat of dispossession, a suit for injunction simpliciter would suffice. However, when a cloud is raised over the plaintiff's title and there is no possession, a suit for declaration and possession, with or without consequential injunction is the remedy and when the plaintiff's title is not in dispute or under a cloud but he is out of possession, he has to sue for possession with a consequential injunction. This has to be read with the clarification as coming out from paragraph 14 which is extracted hereunder: -

> *"14. We may, however, clarify that a prayer for declaration will be necessary only if the denial of title by the defendant or challenge to the plaintiff's title raises a cloud on the title of the plaintiff to the property. A cloud is said to raise over a person's title, when some apparent defect in his title to a property, or when some prima facie right of a third party over it, is made out or shown. An action for*

[2] (2008) 4 SCC 594

declaration, is the remedy to remove the cloud on the title to the property."

4. Therein the plaintiff and the defendant claimed title on the very same property but under two different sale deeds; the one in favour of the plaintiffs, by the sister and that, in favour of the defendants, by the brother. The suit was one for injunction simpliciter against the defendants, from interfering with the peaceful enjoyment and possession of the plaintiffs. The brother, the vendor of the defendants, was shown in the revenue records as the owner of the property. The plaintiffs contended that the property was gifted by the brother to the sister by an oral gift. The Trial Court decreed the suit, which was set aside by the First Appellate Court, which order was reversed by the High Court restoring the Trial Court's decree. From the evidence led it was found that the plaintiffs had taken inconsistent stands with respect to the title of their vendor; the sister. One, being a gift by the father, the other, through a partition and also an oral gift by the brother. It was held that such complicated questions could be examined only in a title suit, i.e. a Suit for declaration and consequential relief and not in a suit for injunction simpliciter.

5. ***Balkrishna Dattatraya Galande***[1] was concerned with a suit filed in the year 2004 by the plaintiff claiming possession as a tenant of a premises, for injunction simpliciter against the defendant-owner from interfering with the repairs intended to the premises. The owner on the other hand claimed that he had filed a suit for eviction in the year 1988, and consequent to a settlement, the tenant having vacated the premises in 1991, a *purshis* was filed withdrawing the suit in the year 1991. The tenancy having come to an end at that point, there was no payment of rent after 1991 by the plaintiff. While the Trial Court dismissed the suit finding no possession, the First Appellate Court and the High Court decreed the suit drawing inference of possession from the *purshis*, which only indicated withdrawal of the suit on certain technical defects; not proving the actual vacation of the premises. This Court found fault with the inference of lack of possession based only on the *purshis* when the Commissioner's report in the suit clearly indicated that the subject premises at the time of inspection was not conducive to carrying on a business. The specific contention of the tenant was that he was carrying on an eatery, a *paan* shop and fabrication work in the premises. The businesses claimed were

not found existing in the property, and the plaintiff could not produce any license issued by the Corporation to carry on such businesses and the three-phase electricity connection required to carry on a fabrication business, was also lacking in the premises.

6. Neither a cloud on title as coming out from the first cited case or a dispute on actual possession as had regulated the decision second cited, arise herein. We will first deal with the judgement of the Trial Court, which was in detail. The appellant herein was in management of a Mosque known as Qutub Shahi Mosque, with a Dargah of Shah Amanullah Sahab and a Graveyard also attached with a well, situated in Survey Number 89, Hameedullah Nagar, Shamsabad Mandal, Ranga Reddy District. The total extent in various Survey Numbers was 37 acres 25 guntas, while the suit scheduled property had an extent of 16 acres and 5 guntas, claimed by the defendants. The Trial Court referred to Ex. A1, the certified copy of the Survey Commissioner's report which specifically found the existence of the Mosque, Dargah, Graveyard and the well in an extent of 1.06 acres. The *Muthawalli* of which was one Haji Syed Maher

Ali. Ex. A2 was a copy of the gazette, which clearly identified the entire extent as a wakf institution.

7. The defendant's claim was that they had obtained possession of the suit scheduled property by way of an agreement for sale and a Power of Attorney. However, the defendants admitted that the Mosque had existed for long. Though the witnesses claimed it to be existing for thousands of years, the Trial Court found the same to be exaggerated and found its existence for the last 200 years. The pahanis produced by defendants between the years 1956-57 to 1958-59 clearly indicated it to be a *maafi inam* property, which makes it a *service inam* entrusted for the maintenance of a waqf institution. The persons whose names were shown in the pattadar passbooks were the vendors of the present defendants. It was also found that the pahani showing possession on the vendors was of the year 1956-1957 & 1958-1959 and but for the recital in the agreement of sale there was nothing proving the possession of the defendants. There was also no proof of title of the suit land on the vendors of the defendants after the Survey Commissioner's Report.

8. A reading of the Survey Commissioner's Report of the year 1968, produced as Annexure P1, indicates a survey conducted and the objection of the grandson of the person whose name was entered in the revenue records having been considered and rejected. The Dargah in the property was the grave of the grandfather of the petitioner therein and the entrustment of the land to the petitioner therein, was found on the basis of Ex. A1, to continue the service to the Mosque and the Dargah and to perform the religious rites of his forefathers. The persons who were in possession thus did not have any right to sell the land and hence the Mosque, the Dargah and the Graveyard along with the *inam lands* situated in survey numbers 57, 59, 60, 81, 87, 88, 89 and 121 measuring 42 acres and 3 guntas were found to be wakf land existing for the maintenance of the Wakf. There is no challenge made to the said order by the vendors of the defendants; who in any event are said to be the persons in possession, by virtue only of an agreement of sale and general power of attorney.

9. Annexure P2 notification issued on 9-2-1989 is relevant and we extract serial number 3108:

> *"1. Serial Number. 3108*

2. Name of Taluq or Village or Ward.- Hyderabad West, Taluk, Hameedullah Nagar, (Shamshabad Circle)
3. Name and situation of Wakf Sunni or Shia.- Mosque Qutub Shahi in S.No.89 with Dargah Shah Amanullah Saheb and Graveyard with one well, Area: One Acre 6 Guntas. (S) (1)
4. Nature and object of Wakf.- Prayer, Burial and Fateha (R)
5. Boundaries: N - S.No. 89
S - S.No.89
E - S.No. 89
W - S.No. 89
6. Name of Mutawalli, Haji Syed Meher Ali S/o Late Syed Yaseen All R/o Adj. to Masjid-e- Sang, Gowligda.
7. Gross Income.- 200/-
8. The amount of land Revenue, ... and Taxes payable in respect of Wakf properties.- L.C 7 - 50
9. The expenses incurred in the realisation of the income and pay or other remuneration of Mutawalli of the Wakf.

Details of Wakf properties attached to Wakf. (Agricultural). 50-00
10. Survey Number.- 81, 87, 88, 89, 121, 55, 56, 57, 59 and 60.
11. Extent.-Dry Ac-37-25,G AC-1-06,0 (Uncultivable)
12. Extent. Wet 4 - 08
13. Non-Agricultural: Nature of property L. House/Mulgi etc. Nine Tamerind trees, Fourteen Mango trees In S.No.89.
14. Municipal Number. -
15: Remarks. -"

10. We do not think there is any cloud over the title of the suit scheduled property and the alleged vendors of the defendants, if in possession was only entrusted the said land for the purpose

of maintenance of the Mosque, the Dargah and the Graveyard. The Survey is carried out, leading to Annexure P2 gazette notification under Section 4 of the Wakf Act, 1954 and gazetted under Section 5(2). Disputes regarding wakfs under Section 6 were to be raised originally before the Civil Court as per the Wakf Act, 1954 and then by the 'Wakf Tribunals' after the Wakf Act, 1995 came into force were constituted. For our purpose the limitation provided for raising a dispute is one year from the date on which the list of wakf's are published under Section 5(2). The limitation has been judicially interpreted to mean from the date of knowledge. Obviously, there is no dispute raised by the vendors of the defendants or the defendants themselves within the limitation period of one year from Annexure P2 nor is a contention raised of first knowledge to be on a subsequent date.

11. We find absolutely no reason to uphold the order of the High Court, and we set aside the same. The Appeal stands allowed making the injunction granted by the Trial Court absolute.

12. We also see that there are two Contempt Petitions filed by the respondent, alleging contempt of the *status quo* order

passed by this Court on 06.02.2024. In one of the petitions, it was alleged that religious activities were conducted in the property and that a gateway and hoarding were erected. The allegation in the other contempt petition is with respect to the cancellation of a sale deed, without prior permission of the Court.

13. We do not think that either of these actions would have interfered with the nature of the property or affected the rights of the respondent herein who was the petitioner in the Contempt Petition. In any event, we have held in favour of the Telangana State Wakf Board, and the respondent has no subsisting interest in the property. We find absolutely no reason to entertain the Contempt Petitions. The same stands dismissed.

14. Pending application(s), if any, shall stand rejected.

..... J.
(J. B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

NEW DELHI;
OCTOBER 26, 2026.