
(1984) 08 AP CK 0005
In the Andhra Pradesh High Court
Case No : Appeal No. 89 of 1976

Andhra Pradesh Wakf Board, Hyderabad	APPELLANT
Vs	
S. Syed Ali Mulla and Others	RESPONDENT

Date of Decision : 06-08-1984

Acts Referred:

Waqf Act, 1954 — Section 15, 2, 25, 3, 3(I)

Citation : AIR 1985 AP 127

Hon'ble Judges : Ramachandra Raju, J;Punnayya, J

Bench : Division Bench

Advocate : K.F. Baba, for the Appellant; K. Kameswara Raju and S. Venkata Reddy, for the Respondent

Judgement

Raju, J.—This is a plaintiff's appeal, the plaintiff being the A.P.Wakf Board, Hyderabad (hereinafter called "the Wakf Board". The main dispute which falls for consideration in this appeal is whether the extent of Ac.2,215-85 cents in S.Nos. 212 to 216 in Devada Village and covered by Inam title deed No.42 is Wakf property. Claiming the property to be Wakf, the Wakf Board filed the suit O.S.No.148 of 1967 on the file of the Sub-court, Viskhapatnam, for cancellation of the registered lease dated 24-6-1949 (Ex.A6 is the registration extract of that lease deed) executed by Lutfa Rassol and 11 others in favour of the 10th defendant in the suit for a period of 99 years and for cancellation of the various subsequent leases or sub-leases executed in respect of the property and for recovering possession of the property from the 21 persons impleaded in the suit as defendants. The lessors and the lessee under Ex.A.6 remained ex parte in the suit. The suit was contested in the trial court only by defendants 14 and 21 in whose favour there were certain sub-leases. According to them the property was the personal property of the lessors and was not Wakf property. The learned Subordinate Judge held the property to be not Wakf and dismissed the suit. In this court, the appeal by the Wakf Board is contested by respondents 22 to 24 who represented the interest of the lessors who as earlier stated, remained ex parte during the trial of the suit.

2. For a proper appreciation of the substantial dispute which arises for determination in this appeal, the following relevant provisions of the Wakf Act, 1954. (hereinafter called The Act) become material S.2 makes the Act applicable to all Wakf whether created before or after the commencement of the Act. S.3(I) defines Wakf as meaning:

"The permanent dedication by a person professing Islam of any moveable or immovable property for any purpose recognised by the Muslim law as pious, religious or charitable and includes -

(i) a wakf by user;

(ii) grants (including mashrut-ul-hidmar) for any purpose recognised by the Muslim law as pious, religious or charitable; and

(iii) a wakf alal-aulad to the extent to which the property is dedicated for any purpose recognised by Muslim law as pious, religious or charitable."

3. S.66-C introduced by way of amendment in the year 1964 provides:

"Notwithstanding anything contained in this Act where any movable or immovable property has been given or donated by any person not professing Islam for the support of a wakf being-

(a) a mosque, Idgah, Imambara, Dargah, Khangah or maqbara;

(b) a Muslim graveyard;

(c) a choultry or a musafarkhana, then such property shall be deemed to be comprised in that wakf and be dealt with in the same manner as the wakf in which it is so comprised."

Chapter-II provides for a survey being made of Wakf properties, the publication of the list of wakfs and the manner in which disputes regarding wakfs should be resolved. Chapter-IV provides for the registration of wakfs and the maintenance by the Board of the Register of Wakfs. S.36-A appearing in Chapter V provides:

"Notwithstanding anything contained in the Wakf deed, no transfer of any immovable property of a wakf by way of -

(i) sale, gift, mortgage or exchange; or

(ii) lease for a period exceeding three years in the case of agricultural land, or for a period exceeding one year in the case of non-agricultural land or building, shall be valid without the previous sanction of the Board."

4. S.36-B of the Act provides for the procedure to be followed for recovering summary possession of Wakf property transferred in contravention of S.36-A.

5. S.15 of the Act dealing with the functions of the Wakf Board provides:

"The general superintendence of all wakfs in a State shall vest in the Board

established for the State; and it shall be the duty of the Board so to exercise its powers under this Act as to ensure that the Wakfs under its superintendence are properly maintained, controlled and administered and the income thereof is duly applied to the objects and for the purposes for which such wakfs were created or intended."

6. It is not now disputed before us that if the property is wakf as claimed by the Wakf Board, the impugned leases, having admittedly been made without the previous sanction of the Wakf Board, are invalid. One reason given by the learned Subordinate Judge for holding the property not to be wakf is that the grant or sanad dedicating the property by a person professing Islam is not filed. Obviously the provisions of S.66C of the Wakf Act have not been noticed by the learned Subordinate Judge. Once there is proof of dedication for the support of a dargah, it makes no difference whether such dedication was made by a person professing Islam or by any person professing any other religion. What remains to be considered is whether taking an overall view of the evidence, the Wakf Board has established the permanent dedication of the property as wakf.

7. The earliest document which has a bearing on this question is Ex.B-3 dated 1-12-1863. It is an extract from the Inam Fair Register. The law is settled that the entries made in the Inam Fair Register should be given due weight and importance. The original grant was not available in the enquiry held by the Inam Commissioner. There is, therefore, no information as to who granted the Inam and in whose favour and in what year. The Inam was classified as Devadayam. The enquiry held revealed that it was granted for the support of dargah of Visakhapatnam and free of tax and to enure so long as the service is performed. By the date of the enquiry before the Inam Commissioner, the service was being performed by the legal representatives of three ancestors whose names were noted as Ansar Saheb, Madina Saheb and Mohammed Saheb, all of whose names appear under the word "Dargah". The Inam was confirmed and continued as long as the dargah is in existence and moharrum festival therein rendered. Title Deed No.42 was accordingly issued. The same extract gives indication that the grant was made of lands in Devada Mokhasa and the Mokhasa village has been resumed and the title deed earlier issued by the Inam Commissioner was declared as cancelled some time in July 1902. The lands were resumed presumably for the reason that the services which the grantees had to render at the dargah were not then being performed.

8. The Moshasadars successfully questioned the validity of the resumption in O.S.No.16 of 1902 on the file of the District Judge at Visakhapatnam. Ex.84 is the certified copy of the decree dated 17-12-1903. The Government carried the matter in appeal to the Madras High Court in A.S. No.55 of 1904 where the matter as between the Government and the Mokhasadars ended in a compromise, the certified copy of the compromise decree in which is available as Ex.A.20 dt 7-2-1910. It would appear that consequent on the resumption of the Inam, the Government granted pattas in favour of the ryots of Devada. The

compromise, therefore, provided that the Government do cancel such pattas issued to the ryots of Devada and issue proclamation in the Mokhasa village of Devada that they have restored the grant back to the Mokhasadars. During the period the lands were resumed by the Government they were in the possession of the Government and the Government realised certain mesne profits out of the lands, the subject-matter of the grant. The compromise has also provided as to how the mesne profits which the Government had so collected should be dealt with.

9. Clauses 2 to 6 of this compromise decree become material and have, therefore, been extracted:

"(2) that the mokhasadars and their heirs do permanently enjoy the suit properties performing the duties connected with the Dargah subject to the following conditions, viz.,

(a) out of the annual net income of the mokhasa of Devada, for the dargah not less than Rs. 120.-a year shall be spent by the Mokhasadars on the distribution on Kyrat (Charity) amongst travelling Fakirs or if the whole amount cannot be so appropriated, the remainder shall be spent on any suitable charity amongst the Mohamadans of Vizagapatnam with the approval of the Collector.

(b) Out of the annual net income not less than Rs.1125.00 shall be spent for the Moharrum, monthly festivals and general upkeep of the Dargah and Rs.75-00 on annual repairs and lighting. The repairs are to be done to the satisfaction of the Collector of Vizianagaram.

(c) The balance after deducing the above charges shall be enjoyed by the Mokhasadars.

Cl.3(a): That out of the mesne profits up to the end of fasli 1317 (1907) of the mokhasa of Devada in the hands of Government, 2/9 be constituted into a charitable fund for Mohamedan education or their charity to be determined and administered by the municipal council of Vizagapatnam and that the said sum be invested in Government promissory notes or other trust securities in the name of the municipal council.

(b) that a sum equal to 1/9th of the accumulated mesne profits be spent by the Mokhasadars on restoring the Dargah to the satisfaction of the Collector of Vizagapatnam and

(d) that the balance of the mesne profits be handed over to the Mokhasadars.

Cl.(4): That the costs incurred by Government amounting to Rs.1024-11-0 be paid in equal shares from the mesne profits to be paid to the plaintiffs and from the amount to be set apart for a charitable fund for mohamedan education, and that the plaintiffs do bear their own costs.

Cl.(5): That an account be rendered every year by the mokhasadars to the Collector on the 15th of April every year, of the expenditure on charity, Dargah

and ceremonies under separate heads.

Cl. (6): that the grant be resumable, if the terms of the compromise are not fulfilled."

10. Column 8 of the Inam Fair Register (Ex.B-3) makes it clear that the Inam was granted for the support of Dargah of Vizaghatnam. Column 10 indicates that the grant was to continue so long as the service is performed. By the date of inam enquiry, the Dargah was in existence and services were being rendered. The grant was confirmed and continued as long as the Dargah is in existence and Moharrum festival therein rendered. The Inam was described as Devadayam. These various entries made in the Inam Fair Register would establish the ingredients of "wakf as defined under S.3(1) of the Act. For the purposes of that definition, the dedication need not be in favour of the dargah. It is enough if the dedication is made for a purpose recognised by the Muslim law as pious, religious or charitable. Grants by way of service inams made for the aforesaid purposes would also constitute the property "Wakf". We have therefore, no hesitation in reaching the conclusion on the basis of the several entries made in the Inam Fair Register that the property which was granted as a service inam partakes the character of wakf.

11. We now proceed to examine the terms of Ex.A.20 compromise decree, the material portions of which have been earlier extracted. The compromise decree obligated the Mokhasadars to spend annually an amount of not less than Rs.120 on the distribution of charity amongst travelling Fakirs. It also obliged the mokhasadars to spend annually an amount not less than Rs.1125/- for performing the Moharrum, monthly festivals and general upkeep of the Dargah and Rs.75/- on annual repairs and lighting. The Mokhasadars were to enjoy the suit properties and the balance of the income but subject to the condition that they render service connected with the dargah. If the terms of the compromise are not fulfilled, the grant is resumable. These various terms of the compromise decree would only reiterate the nature of the properties subject matter of the grant to be wakf. If the mokhasadars were allowed to enjoy, the properties permanently it is subject to the condition that they render service at the dargah and perform the various obligations, imposed on them in terms of the compromise decree. The Mokhasadars would not be entitled at any time either to refuse to render service at the dargah or refuse to make the annual cash utilisation for the purposes mentioned in the compromise decree. Even the terms of the compromise decree read as a whole indicate the grant to have been made for a purpose recognised by the Muslim law as pious, religious or charitable. The compromise decree no doubt construed the Inam as a service inam. Whatever may have been the position prior to 1964 amendment, such service Inams granted for the purposes referred to above come within the description of Wakf after the Amendment Act 34 of 1964. The grant being subject to the various obligations cast on the Mokhasadars, the Mokhasadars cannot contend after the aforesaid amendment made to the Wakf Act in the year 1964 that the property

does not answer the description of Wakf merely because the compromise decree allowed them to permanently enjoy the property so long as they rendered service and made the cash contributions.

12. In *Nawab Zain Yar Jung and Others Vs. The Director of Endowments and Another*, the Supreme Court observed:

"Similarly the Muslim law relating to trusts differs fundamentally from the English law, According to Mr. Ameer Ali.

"The Mohammadan law owes its origin to a rule laid down by the Prophet of Islam; and means "the tying up of property in the ownership of God the Almighty and the devotion of the profits for the benefits of human being." As a result of the creation of a wakf the right of Wakf is extinguished and the ownership is transferred to the Almighty. The manager of the Wakf is the Mutawalli., the Governor, superintendent or curator. But in that capacity he has no right in the property belonging to the wakf; the property is not vested in him and he is not a trustee in the legal sense."

Therefore, there is no doubt that the wakf to which the Act applies, in essential features is different from the trust as known to English Law."

In *R. Doraswamy Reddy v. Board of Wakf* 1978 (2) APLJ 399 Gangadhara Rao J. dealing with a service grant made for the purpose of celebrating moharrum festival and for maintaining resting place for fakirs and in repelling the argument that the property does not vest in the Almighty but it vests in the person who is to render service, observed:

"It is true that the land was granted to an individual to perform service. But it does not mean that he acquires title to that property. Similarly, if the land can be resumed for non-performance of service and can be regranted to another person for rendering service, it does not mean that the original grantee continues to be the owner of the property. When once the Wakf was created it continues to be Wakf. When the inam is resumed and regranted it does not mean that there is revocation of the service. It only means that the wakf property is entrusted to another individual to perform the service."

We are in respectful agreement with the aforesaid observations and hold that after 1964 amendment Act, all service grants made for any purpose recognised by the Muslim law as pious, religious or charitable have the effect of constituting the property, subject matter of the grant to be wakf, it is so because the wakf in its basic essential involves the permanent dedication of the property for such a performance.

13. We may now briefly notice the various other documents filed in the suit and submissions made by the learned counsel. The Commissioner appointed under the Wakf Act in his Survey report Ex.A1 dt 2-4-1956 proceeded on the basis that Ex.A-20 compromise decree was a scheme decree. Such interpretation of the compromise decree as a scheme decree is inaccurate. It would further appear

from Ex.A-1 that in the year 1936 there was a proposal for resuming the service inam but such proposals had not taken any concrete shape even by 1956 when the Commissioner found that service was being rendered at the Dargah through the agency of a Mujawar appointed by the Mokhasadars,. Consequent on the report, the gazette notification Ex.A-2 dated 30-11-1961 was issued registering certain endowed properties as per the Act. The Idgah and Dargah which figure in this litigation appear as items 99 and 100. Both are classified as religious. There was a misdescription of the village as Duvada and the name of the Dargah was not mentioned. By an errata published in Ex.A3 gazette dt 16-9-1965 the name of the Dargah was mentioned as Syed Ali Ishaq Madina Dargah and the name of the village Devada was corrected in substitution of Duvvada. The wakf is, therefore, a registered wakf.

14. The following cases arising from the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1966, prior to the Amendment made to S.3-A of that Act in Sri Subramanya Bharathi Bhavana Kalasalav. Commr. Hindu Religious and Charitable Endowments A.P.Hyderabad W.A. No. 695 dt 26-9-1974 Nelamvari Annachatram Rajamandry v. Govt. of A.P.W.A. Nos. 86 and 542/74 dt 20-11-1974 and Nalam Ramalingaiah v. Commr. Hindu Religious and Charitable Endowments A.P.Hyderabad W.P. No. 3156 of 1973 dt 15-4-1975 will not, therefore, have any application to cases arising under the Wakf Act which in terms of S.2 of the Act, applies to all Wakfs whether created before or after the commencement of the Act. The limitation cannot be imported that the Act applies only to wakfs registered under the Act and not to wakfs not registered under Act. The general superintendence of all Wakfs in the State shall vest in the Board established for the State irrespective of the question whether the wakf is registered or not registered. This question, however becomes academic as by the notification referred to above, the wakf is a registered wakf, Ex.B1 judgment of this court to which as detailed reference will be made later, also proceeded on the footing that the wakf finds a place in the wakf register.

15. The manner in which the parties dealt with the property from the year 1949 provides, interesting reading. Ex.A6 registration extract of the lease dated 24-6-1949 discloses that Abdul Lutifa Rasool and 11 others who described themselves as the mokhasadars and mutawallis leased out the suit property in favour of the 10th defendant for a period of 99 years on an annual rent of Rs.1,000/- The document also recites that the lands have been in the possession of the lessors as Mutawallis of Syed Ali Madina Avulla Dargah and that the grant was made in favour of the said Dargah. The property was leased out for the purpose of raising causerina topes and for using the land as salt pan lands with a right granted to the lessee to sublet, The 10th defendant would appear to have sub-leased the property in favour of one Bheri Jagannadha Rao under a registered lease dated 13-8-1949 for a term of 50 years which document is for a term of 50 years which document is however not filed in the case. Bheri Jagannadha Rao in his turn sub leased a 1/3rd share of the property under Ex.A.7 registration extract of the lease dt 5-9-1949 in favour of the 11th

defendant for a term of 50 years. Even in this document, the property is referred to as granted in favour of the dargah. The 10th defendant, by Ex.A.8 registration extract of a lease dt 6-12-1949, sub-leased the property in favour of the same Bheri Jagannadha Rao for the remaining term of 49 years and even in this document, the land is referred to as granted in favour of the dargah. Bheri Jagannadha Rao has again by Ex.A.9 registration extract of the lease deed dated 22-12-1959 sub-leased the property in favour of the 12th defendant in the suit and in this document, the suit land was merely referred to as Mokhasa Inam in Devada village. Close on the heels of these various leases, there was a meeting held by the Mutawallis and the local Muslim public on 18-2-1951. The resolutions passed at that meeting are to the effect that certain representations were allegedly made to the Mokhasadars by the 10th defendant but he did not fulfil the obligations and that contrary to the understandings arrived at the time, the lease was granted in favour of the 10th defendant under Ex.16, that attempts were being made to lease out the property after receiving and utilising the land for growing salt. By notice Ex.A-4 dated 9-3-1951 issued to defendants 10,11 and 12, the Mutawallis have cancelled the lease granted by them under Ex.A6 and informed defendant s11 and 12 that they cannot claim any rights under any sub-leases granted in their favour. In this notice,reference is made that the lands are devadaya lands. Notwithstanding this resolution Ex.A-4, the sub-lessees began to further sub-lease the property in favour of one or the other defendants 13 to 17 and some such leases have been filed as Ex.A.10 dated 25-9-1951 executed by the 12th defendant in favour of the 13th defendant, Ex.A11 dated 25-4-11952 executed by the 13th defendant in favour of the 14th defendant Ex.A11 dt 12-9-1953 executed by the 14th defendant in \\favour of the 15th defendant Ex.A13 dated 6-9-1956 executed by the 16th defendant in favour of the 14th defendant, Ex.A14 dated 9-9-1958 executed by the 14th defendant in favour 17th defendant. It was obviously during this period when these various leases came into existence that the Wakf Board interfered resulting in Ex.A1 Survey Report of the Commissioner of Wakfs and the publication made in the Gazette registering the property as wakf property. In these several leases,as earlier stated, the property was in the beginning being described as forming part of a grant made in favour of the Dargah and in the subsequent leases, however, the property was being merely described as a land in Devada Mokhasa.

16. The Andhra Inams (Abolition and Conversion into Ryotwari) Act, 1956,had come into force at this point of time. Some time after this Act came into force, the 3rd defendant and some other Mokhasadars executed a lease in respect of the property under Ex.A-15 dated 2-4-1962 in favour of the 18thg defendant for a period of 90 years on a yearly rent of Rs.1500/- In that lease the Mokhasadars laid claim to the property as belonging to them and they were competent to grant such a long lease.

17. The Tahsildar, Visakhapatnam made a suo motu enquiry in the year 1965 under the Inams Abolition Act 1956 to determine: (I) whether the lands in Devada Mokhasa village in Visakhapatnam taluk , excepting S.Nos. 212 to 216

are inam lands; (2) Whether such Inam lands are in ryotwari, zamindari or inam village; and (3) whether such inam lands are held by any institution. To that enquiry, the Mokhasadars, the Wakf Board, the Mutwallis and the tenants in possession of those lands were parties. By order Ex.B.2 dated 17-1-1967 the Tahsiladar held the lands subject matter of that enquiry to be inam lands in the inam village of Devada and were not held by an institution. The Wakf Board carried the matter in appeal before the Revenue Divisional Officer, Visakhapatnam in I.A.Nos.2 and 3/67 which were dismissed on 21-8-1967. The Wakf Board then filed W.P.No.1726 of 1968 which was dismissed by this court on 22-4-1970. Ex.B.1 is the certified copy of the judgment of this court in the said writ petition.

18. During the pendency of these proceedings, there were some disturbances of possession which are reflected by Exs. A-18 and A-19, certified copies of judgments in C.Nos. 17 and 18/67 on the file of the IInd Addl. Judl. Ist class Magistrate, Viskhapatnam. There were some further transactions of leases evidenced by Ex.A-16 dated 15-5-1965 executed by the 14th defendant in favour of the 21st defendant and Ex.A17 dated 5-12-1968 executed by the 14th defendant in favour of one P. Suryachandra Reddy who is not a party to the suit. Ex.A.17 transaction is however pending the suit filed into court on 14-8-1967.

19. The plaintiff has let in oral evidence by examining P.Ws.1 and 2. The defendants did not let in any evidence. P.W.1 is a retired Inspector Auditor of the A.P.Wakf Board having retired on 1-1-1973. It was he that gave instructions to the filing of the suit under authorisation by the Wakf Board. He merely filed the documents Exs. A-1 to A17. His oral evidence does not take one beyond those documents. The third defendant in the suit gave evidence as P.W.2 His evidence is that the suit lands were belonging to the dargah of which Lutfa Rasool himself, the 1st defendant and other were the Mutawallis. According to him the income of the property was being spent by the Mutawallis for the festive occasions in the Dargah and that despite the leases which came into existence in respect of the property, the Mutawallis themselves continued to be in possession of the lands. He denied the suggestion made to him that the lands were not granted to the Dargah but were granted in favour of individuals. The oral evidence, therefore, left no doubt whatsoever that the lands were granted to the Dargah.

20. We have earlier made detailed reference to the various documents filed in the suit. Whatever could be said on the basis of the Inam Fair Register extract is that the lands would appear to have been granted to the Dargah, one cannot at the same time overlook the terms of the compromise evidence by Ex.A.20 in terms of which the grant was treated both by the Government and by Mokhasadars as a grant made to individuals burdened with service and resumable if the terms of the compromise were not duly observed by the Mokhasadars. This compromise decree would in our view hold the field and govern the rights of the parties. We have earlier held that even if it was a service inam granted to individuals burdened with service, it answers the description of

Mashrut Khidmat and falls under "Wakf" as defined under S.3(1) of the Act.

21. It is however submitted by Mr. Venkat Reddy, learned counsel appearing for the contesting respondents that after Ex.B1 judgment of this court dated 22-4-1970; it is no longer open to the Wakf Board to contend that the property continues to be wakf even though the pattas in respect of the properties were granted in favour of the mokhasadars under the Inams Abolition Act 1956. Mr.Babal, learned counsel appearing for the Wakf Board submitted that once the property is wakf the property continues to be governed by the provisions of the Wakf Act and not by the provisions of the Inams Abolition Act, 1956. In the alternative, it is submitted that even if such a patta was granted in favour of the Mokhasadars, they continue to hold the property only as persons in management of the wakf property and the nature of the property as Wakf continues for ever despite the grant of the patta under the Abolition Act in favour of the Mokhasadars. It is also stated that the enquiry under the Inams Abolition Act has particular reference to S.Nos. 1 to 211 of Devada Village and not to the lands comprised in S.Nos. 212 to 216.

22. We have no hesitation in rejecting the last of these submissions made by Mr.Baba. This court in its judgment Ex.B1, was considering the nature of the inam granted which is the root of the title asserted before the court either by the wakf or by the Mokhasadars. This court held the grant to be in favour of the Mokhasadars and that the grant was not in favour of the institution. Once the lands in the village are covered by the same title deed, it does not matter if Ex.B1 judgment has reference only to the lands comprised in S.Nos. 1 to 211. That Judgment would operate as constructive res judicata even so far as the suit lands which are comprised in S.Nos. 212 to 216 are concerned.

23. That then is the effect of the grant of pattas under the Inams Abolition Act in favour of the Mokhasadars vis-à-vis our finding that the property is wakf property. Can it be said that because the pattas were given in favour of the Mokhasadars, the grant of such patta has converted once for all what was originally wakf property as a non-wakf property. Wakf in its nature, is a permanent dedication of property for a purpose recognised by the Muslim law as pious, religious or charitable. When once the property is held to be wakf, it always retains its character as a wakf and the grant of a patta in favour of the Mokhasadars in possession of the property does not in any manner detract from the earlier dedication made of the property constituting the same as wakf. This identical question was sought to be raised in Doraswamy Reddy's case (1978) 2 APLJ 399 (supra) but it was raised in a Second Appeal and the question was not allowed to be raised because it was not raised in the court below. There are, however, other pertinent observations made in Doraswamy Reddy's case (supra) which lend support to the view we are inclined to take that when once the wakf was created it continues to be a wakf at all times. The Mokhasadars are not certainly entitled to say that because the patta is granted in their favour under the Inams Abolition Act the obligations which were cast on them in terms of

Ex.A-20 compromise decree need not be performed. That is not even the stand taken by the Mokhasadars. We have earlier referred to the evidence of P.W.2, one of the Mokhasadars, themselves. We therefore, hold that the property continues to be governed by the provisions of the Wakf Act and the issue of a patta in favour of the Mokhasadar under Inams Abolition Act does not affect in any manner the original wakf character of the property.

24. The impugned leases, as we have earlier stated, are all for periods exceeding three years. They were admittedly granted without the previous sanction of the Board and are hit by S.30A of the Wakf Act. The Wakf Board is, therefore, entitled to have all those leases executed by the Mutawallis cancelled. As a necessary consequence, the various sub-leases referred to above can have no legal consequence and are to be set aside.

25. In the suit, the Wakf Board has also sought the relief of possession. It is stated by Mr. Venkat Reddy that the Mutawallis are entitled to be in possession and while cancelling the leases granted by the Mutawallis, possession may not be decreed in favour of the Wakf Board. It is not clear whether the persons now in possession of the property are by Mutawallis recognised by the Wakf Board. Further defendants 1 to 9 have, at an earlier point of time, become parties to the invalid lease Ex.A-6 dt 24-6-49 and some of the Mutawallis had again executed the lease Ex.A.15 dt 2-4-1`962. None of defendants 1 to 9 filed any written statement in the suit questioning the right of the Wakf Board . That apart, in the suit filed by the Wakf Board for possession, we cannot grant any decree for possession in favour of defendants 1 to 9 as against the other defendants.

26. In the result, the judgment and decree of the learned Subordinate Judge are set aside. The appeal is allowed, setting aside the leases Exs. A-6 and A-15 and the various other sub-leases executed, inter se, by defendants 10 to 21 and direct the defendants to deliver possession of the property in favour of the Wakf Board. Having regard to all the circumstances of the case, however, and more especially that defendants 1 to 9 are responsible for executing invalid leases, we direct costs both in the suit and in this appeal to be paid by defendants 1 to 9 to the Wakf Board and direct defendants 10 to 21 to bear their respective costs.

27. Appeal allowed.