PUNJAB WAKF BOARD

v.

GRAM PANCHAYAT @ GRAM SABHA

DECEMBER 1, 1999

[M. JAGANNADHA RAO AND A.P. MISRA, JJ.]

Punjab Village Common Land (Regulations) Act, 1961—Section 2(g) & Section 13 'shamilat deh'—Village property used for community purposes—Revenue records show Gram Panchayat as owner—Whether land in question is 'Shamilat deh'—Held, yes—Further Held, a suit for declaration in respect of the property is barred.

Wakf Act 1954—Sections 4,5(2),6—Notification by Wakf Board declaring suit property to the Wakf Property—Respondent claiming the land as shamilat deh and used by community—Assistant Collector and Collector rejecting mutation in favour of Wakf Board—Whether the decision by Assistant Collector is barred under the Act—Held, no.

Wakf Act 1954—Section 6 Explanation, Section 13—Suit by persons interested in the wakf—To be filed within one year—Whether party can approach authorities under the Act without filing a suit as a person interested—Held, Yes—Since no notice was issued to the party, it can approach the Assistant Collector and Collector—A suit by wakf board challenging the decisions of the authorities is barred.

Appellant issued a notification under Section 5(2) of the Wakf Act, 1954 treating the suit property as a Muslim grave-yard, in pursuance of which the property was mutated in the name of the Appellant. The Respondent then filed a claim before the Assistant Collector that the property was community property and a 'shamilat deh' which stood vested in the Gram Panchayat and could not have been mutated in the name of the Appellant. The Appellant contended that the property was under their ownership and was being used as a graveyard for Mohammedans exclusively. The Assistant Collector allowed the claim of the respondent, rejected the mutation and held that the Respondents have been recorded as the owner in the revenue records and the property in question is also being used for common purposes by them.

The appeal filed by the Appellant was dismissed by the Collector. The

A Appellant filed a Civil Suit for a declaration that they were the owners in possession of the property as per the Jamabandi with all rights appurtenant thereto. The Appellant contended that the notification under Section 5 (2) of the Act of 1954, was conclusive and the orders of the Assistant Collector and Collector were illegal and without jurisdiction as the notification was not challenged within one year as provided under first proviso to Section 6(1) of B the Act of 1954. The Respondent contended that the property was not a graveyard exclusively for Muslims as it was used by the village community and that the suit itself was barred under Section 13 of the Punjab Village Common Land (Regulations) Act, 1961.

C The Subordinate Judge dismissed the suit and held that the suit property was not in the ownership of the Appellant and that the suit was barred under Section 13 of the Act of 1961. The Appeals filed by the Appellant before the District Court and the High Court were dismissed.

In appeal to this Court, the Appellant contended that the notification D issued under Section 5(2) of the Act of 1954 is conclusive on the question whether the property is of the wakf or not, that the decision of the Assistant Collector and the Collector is void inasmuch as no suit has been filed within one year for challenging the notification and therefore the notification will remain unaffected precluding the Assistant Collector as well as the Collector from rendering any decision contrary to what was declared in *Sayyed Ali's* E case, that under Section 2(g) of the Panchayat Act, 1962 since the revenue record does not show use by the Panchayat and the land stood excluded from the definition of "Shamilat Deh", and that the explanation added below Sec. 6(1) of the Act of 1954 by the Central Act 69 of 1984, is applicable to those who are interested in the Wakf Property and hence the Respondent ought to F have filed a suit within one year, challenging the notification.

The Respondent contended that *Sayyed Ali's* case was distinguishable from the present case, that notwithstanding the Notification under Section 5(2) it was open to the Assistant Collector and the Collector to decide that the property in question was not wakf property, that once the authorities G decided in favour of the Gram Panchayat Section 13 of the Act was a bar to the maintainability of the present suit by the Wakf Board, and that the land was being used for community purposes as recorded in the revenue records and was therefore not excluded from "Shamilat Deh" as defined in Section 2(g) of the Punjab Act of 1961.

H Dismissing the Appeal, the Court

HELD: 1. The findings of the Assistant Collector that the revenue records show that the Gram Panchayat is the owner and also that the property in question is being used for common purposes of the Gram Panchayat showed the land was being used by village community. It is obvious from the definition of Shamilat Deh in Section 2(g) of the Punjab Village Common Land (Regulations) Act, 1961 that the land in question did not fall within the exclusionary part of the definition. Therefore, the land was "Shamilat Deh" and was being used as such as per the revenue records. Thus, Section 13 of Act would apply and preclude a suit by the Wakf Board. [139-B-D]

2. The first proviso to clause (1) of Section 6 would not come in the way of the Assistant Collector and the Collector to decide the dispute raised by a third party like the Panchayat whether the property is a modern Wakf or not. In the present case the dispute not being one between the Wakf and Mutawalli or the persons claiming under him, but with a stranger, the decision in *Sayyed Ali's* case cannot be applied. The said decision is clearly distinguishable and is not applicable to the facts of this case. [136-G-H; 137-B]

Sayyed Ali v. *Wakf Board Hyderabad,* [1998] 2 SCC 642, distinguished.

Board of Muslim Wakf, Rajasthan v. *Radha Kishan and Ors.,* [1979] 2 SCC 468, followed.

Sayed Mohd. Sali Labbai (D) by LRs. and Ors. v. *Mohd. Hanif (D) by Lrs. and Ors.,* cited.

3. The Government of India has not issued any date for commencement of the explanation in Section 6 of the Wakf Act. Even if it is assumed that the explanation can be invoked, there is on material before the Court to show that any notice was issued to the Gram Panchayat before the issuance of the notification. If no notice was issued as required by the Notification, the Notification would not come in the way of a Civil Court to decide the question if raised between the Wakf and a third party, even if such a suit was filed beyond one year from the date of the notification. Thus, once the Assistant Collector and the Collector had jurisdiction to decide, their decision became final and Section 13 of the Panchayat Act barred the Civil Suit filed by the Wakf Board. The present suit is therefore barred under Section 13 the Punjab village Common Lands (Regulations) Act, 1961. [137-G-H; 138-A-B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1938 of 1997.

A From the Judgment and Order dated 6.12.1995 of the High Court of Punjab & Haryana passed in R. S. A. No. 1712 of 1995.

Irshad Ahmad for the Appellant.

S. Ujagar Singh, Devender Verma, Girish Sharma and Ms. Naresh Bakshi
B for the Respondents.

The Judgment of the Court was delivered by

M. JAGANNADHA RAO. J. This appeal is preferred by the Punjab Wakf Board against the Judgment of the Punjab High Court in R. S.A. No.
C 1712/1995 dated 6.12.1996. By that Judgment, the Punjab High Court confirmed the Judgment of the Additional District Judge, dated 5.10.94, which had affirmed the Judgment of the learned Subordinate Judge, Samrala dated 31.3.1992. All the Courts have dismissed the present suit filed by the Punjab Wakf Board on merits as well as on the ground that, by virtue of Section 13
D of the Punjab Village Common Lands (Regulations) Act, 1961 (hereinafter referred to as the Act), the present suit was barred from the jurisdiction of the Civil Court. It is against this Judgment that the Punjab Wakf Board has come up in appeal.

The facts of this case in brief are as follows: On 19.9.70 the Punjab Wakf
E Board issued a Notification under sub- section (2) of section 5 of the Wakf Act, 1954, treating the property in question as a moslem grave-yard.

It appears that on 21.5.1972, the Director of Land Records, Punjab, wrote to the Revenue Officer concerned for mutation of the land in the name of the Punjab Wakf Board. Accordingly, the Patwari of the area mutated the
F property in the name of the Punjab Wakf Board. Thereafter, the matter was taken up by the Gram Panchayat (Gram Sabha) of Hariom Khurd, Tehsil Samrala, District Ludhiyana before the Assistant Collector, Grade 1, Samrala, contending that the property was community property which stood vested in the Gram Panchayat and could not have been mutated in the name of the
G Punjab Wakf Board. On that, notice was issued to the Punjab Wakf Board and evidence was also led by the parties. Learned counsel for the Gram Panchayat argued before the said Assistant Collector that the Gram Panchayat was the owner of the property which was 'Gair Mumkin Kabaristan' according to revenue records. Moreover, it was being used for common purposes of all communities by the Gram Panchayat and was also a site for an annual fair.
H It was contended that the Punjab Wakf Board could have no claim over the

property and that the mutation could not have been made in favour of the Wakf Board upon a letter from the Director of land Records. On the other hand, it was contended by the Punjab Wakf Board that the property was under the ownership of the Punjab Wakf Board and was being used as a graveyard for Mohammedans exclusively and was not being used as a graveyard generally for all the members of the community.

On the above contentions, the Assistant Collector held as follows:

> "Moreover, the Gram Panchayat has been recorded as the owner in the revenue records and the property in question is also being used for common purposes under the Gram Panchayat. At the same time, the Punjab Wakf Board has also failed to substantiate its claim over the disputed property and has also not been able to rebut the claim of the Gram Panchayat. In these circumstances, the mutation is rejected".

This order was passed on 31.3.1986 by the Assistant Collector in favour of the Village Panchayat. The appeal against this order filed by the Punjab Wakf Board was dismissed by the Collector on 20.7.1987 Thereafter ,the Punjab Wakf Board filed the present suit before the subordinate judge's court on 5.10.1990 for a declaration that the plaintiff was the owner in possession of the property as per the Jamabandi for the year 1987-88 with all rights appurtenant thereto. The Punjab Wakf Board relied upon the statutory notification dated 19.9.1970 as being conclusive that the property was merely a moslem graveyard. The Wakf Board contended that the order of the Assistant Collector dated 31.3.1986 and that of the Collector under appeal were illegal and without jurisdiction in as much as the notification dated 19.9.1970 was not questioned by the Gram Panchayat within one year thereof, as provided in the first proviso to Sec. 6(1) of Wakf Act.

The Gram Panchayat filed a written statement contending that the property was not graveyard exclusively meant for Muslims as it was being used by the village community and that in any event, the suit of the Wakf Board was barred under section 13 of the Punjab Village Common Land (Regulations) Act, 1961.

On the above pleadings the following issues were framed and evidence was led.

(1) Whether the suit has been filed by a competent person?

A (2) Whether the plaintiff is owner in possession over the suit land?

(3) Whether the impugned order passed by C.A. Ist Grade Semrala dated 30.3.87 is illegal null and void and without Jurisdiction?

(4) whether the suit is barred under Section 13 of Punjab Village Common
B Land Regulation Act ?

(5) Relief.

On issues 2 and 3 , the learned Subordinate Judge came to the conclusion that merely by way of a Notification by the Wakf Board, the suit property
C could not become the property of the wakf that after the partition of India in 1947 , no dead bodies were being buried by the Mohammedans in the suit land and it was no longer being used as a graveyard. A mere entry in the cultivation column, in the name of Wakf Board would not bring their property within the ownership of the Wakf Board. On these findings, the learned
D subordinate Judge held that suit property was not in the ownership of the Wakf Board. The court also held that the suit was barred by section 13 of the Punjab Village Common Land (Regulations) Act. 1961. In other words. The decision of Assistant Collector and the Collector was not interfered with.

The above judgment of the learned subordinate judge was affirmed by
E the District Judge in the appeal filed by the Wakf Board. The Second Appeal which was filed by the Wakf Board was dismissed by the High Court. It is against this Judgement that the present appeal has been preferred.

In this appeal, learned counsel for the appellant has contended that the Notification issued under sub-section (2) of Section 5 of the Wakf Act. 1954
F is conclusive on the question whether the property is of the Wakf or not and that the decision of the Assistant Collector and the Collector that the property is not wakf property is void, inasmuch as no suit has been filed within one year of Notification issued under sub-section (2) of Section 5 of the Wakf Act and therefore, the Notification will remain unaffected, precluding the Assistant
G Collector as well as Collector from rendering any decision contrary to what was declared in the Notification. For this purpose, learned counsel for the Wakf Board has relied upon a recent decision of this Court reported in, [1998] 2 SCC 642 *(Syyed Ali and Ors.* v. *A.P. Wakf Board, Hyderabad and Ors.*, learned counsel also relied upon a Judgment of this Court reported in [1976] 4 SCC 782 (*Syed Mohd. Salie Labbai (D) by Lrs. and Ors.* v. *Mohd. Hanifa*
H *(D) By Lrs. and Ors.*, to contend that once property became Wakf property

it would continue to be Wakf property notwithstanding non-user by the Muslim community. Learned counsel also contended, relying upon Section 2(g) of the Panchayat Act, 1961 that the revenue record does not show user by the Panchayat and hence the land stood excluded from the definition of 'Shamilat Deh'.

On the other hand, learned counsel for the respondent contended that *Sayyed Ali's* decision was distinguishable and that notwithstanding the Notification under sub-section (2) of Section 5, it was open to the Assistant Collector and the Collector to decide that the property in question was not Wakf property. Further, once the said authorities decided in favour of the Gram Panchayat, Section 13 of the Act was a bar to the maintainability of the present suit by the Wakf Board. It was also contended that the land was being used for community purposes as recorded in the revenue records and was therefore not excluded from 'Shamilat Deh' as defined in Section 2(g) of the Punjab Act.

On the above contentions, the following points arise for consideration:

(1) Whether the decision of the Assistant Collector and the Collector dated 31.3.86 and 20.7.87, respectively, should be declared void, inasmuch as the Gram Panchayat did not file a Civil Suit within one year as mentioned in the first proviso to sub-section (1) of Section 6 of the Act.

(2) Whether on the facts of the case, the Wakf Board could contend in the Civil Court that the property, even it was community property, was not recorded as being used for the said purpose and that the present suit came within the exclusionary part of the definition of 'Snamilat Deh' in Section 2(g) of the Punjab Village Common Land (Regulations) Act, 1961?

Point No. 1:

Chapter II of the Wakf Act, 1954 refers to the preliminary survey of Wakfs and Section 5 deals with the publication of the list of Wakfs. Section 5 reads as follows :

> "5. Publication of list of Wakf:- (1) On receipt of a report under sub-section (3) of Section 4, the State Government shall forward a copy of the same to the Board.
>
> (2) The Board shall examine the report forwarded to it under sub-

A section (1) and publish, in the Official Gazette, a list of Wakfs in the State, or as the case may be, the part of the State, whether in existence at the commencement of this Act or coming into existence thereafter to which the report relates, and containing such particulars as may be prescribed."

B Section 6 deals with disputes regarding Wakfs. Sub-section (1) of Section 6 reads as follows :-

"*Section 6(1) : Disputes regarding Wakfs :*

C (1) If any, question arises whether a particular property specified as Wakf Property in a list of Wakfs published under sub-section (2) of Section 5 is Wakf property or not, whether a Wakf specified in such list is a Shia Wakf or Sunni Wakf, the *Board* or *the Mutawalli of the Wakf* or *any person interested therein,* may institute a suit in a Civil Court or Competent jurisdiction for the decision of the question and the decision of the Civil Court in respect of such matters shall be
D final."

No doubt as contended for the appellant Wakf Board, the first proviso to sub-section (1) of Section 6 as extracted below requires that Civil Suit shall be filed within one year from the date of the publication of the Notification
E issued under sub-section (2) of Section 5.

The first proviso to sub-section (1) of Section 6 reads follows :-

"Provided that no such suit shall be entertained by the Civil Court after the expiry of one year from the date of the publication of the list
F of Wakfs under sub-section (2) of Section 5."

In this connection we shall first deal with the decision in *Sayyedali & Ors.* v. *A.P. Wakf Board, Hyderabad and Ors.*, [1998] 2 SCC 642, relied upon by the appellant Wakf Board. The above ruling was relied upon by the learned counsel for the appellant to contend that the Assistant Collector and Collector
G were bound by the Notification as the Panchayat had not filed any suit within one year of the Notification.

The facts of the above case were that the Dangha in that case was notified as a Wakf on 30.11.1961. But the Mutawalli of the Wakf had executed long term leases in favour of the defendants who in turn had executed sub-
H leases. The Wakf Board, therefore filed a suit on 8.8.87 for cancellation of the

leases. That suit came for consideration before the learned subordinate Judge on 14.2.75. By that date, it appears that the Tehsildar in an enquiry under Section 3 of the Andhra Pradesh (A.A.) Inams (Abolition & Conversion into Ryotwari) Act, 1956, had come to the conclusion that the Inam was not held by any institution, but was held by the individuals, that is to say, the individual mutavllies. This decision was confirmed by the Revenue Divisional Officer. Writ Petition filed by the Wakf was dismissed on 22.4.70. Relying on the above said orders of the Tahsildar, Revenue Divisional Officer and the High Court, the suit filed by the Wakf Board was dismissed by the learned Subordinate Judge on 14.2.1975. The First Appeal preferred by the Wakf Board against the said Judgment was however allowed by the High Court and the suit of the Wakf Board was decreed. It is against the said Judgment in the First Appeal that the Mutawali and the said sub-lessees had come up in appeal before this Court and it was held that once the Notification was issued declaring the property as Wakf on 30.11.61, the Tahsildar, Revenue Divisional Officer and the High Court could not decide anything contrary to the Notification inasmuch as no suit was filed by the Mutawalli within one year of the Notification. In the suit filed by the Board on 8.8.67, it was held that no decision contrary to the Notification, could be given.

A B C D

It will be noticed, however, that the dispute in the *Sayyed Ali's* case was between the Wakf Board on the one hand and the Mutawalli his lessees and the sub-lessees on the other hand. It was on those facts that it was held that the question as to whether the property belongs to Wakf Board or not could not have been decided by the Tahsildar under the Inams Abolition Act, inasmuch as the Notification was binding between the Wakf Board and the Muttawali. The decision in *Sayyed Ali* is in our opinion based upon the specific provision of *sub-section (1) of Section 6, the dispute* there being between the Wakf on the one hand and its Mutawalli or persons claiming from him, on the other. Once the decision of the Tahsildar or the Revenue Divisional Officer or the order of the High Court dated 22.4.1970 was out of the way, because of the Notification, the Civil Suit filed by the Wakf Board relying upon the same Notification could be decreed. That was the view taken by the Court in *Sayyed Ali's case.*

E F G

We are unable to see how the above decision in *Sayyed Ali,* (supra) could be of any help to the appellant in the present case. The dispute here is not between the Wakf Board on one hand and the Mutawalli or those who are claiming under him, on the other hand. Here the dispute is between the Wakf Board and a third party, namely, Panchayat representing the Village

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A community. In our view, in this context, the decision of the three Judge Bench of this Court in the case of *Board of Muslim Wakfs, Rajasthan* v. *Radha Kishan and Ors.*, reported in [1979] 2 SCC 468 is more directly in point. In that case, it was pointed out that the words mentioned in sub-section (1) of Section 6 of the Wakf Act, namely "*the Board or the mutawalli of the Wakf or any person interested therein*", would show that the requirement to file B a civil suit within one year of the Notification under the Wakf Act as mentioned in sub-section (2) of Section 6 of the Wakf Act was in connection with any dispute between the Wakf Board in the one hand and the mutawalli, of the Wakf on the other or any person interested *therein.* The word "therein" was interpreted as meaning '*interested*' in the Wakf as distinct from interested in C the property, i.e. a third party. This is clear from the following passage in the above said judgment (para 33).

> "The answer to these questions must turn on the true meaning and construction of the world 'therein' in the expression 'any person interested therein' appearing in sub-section (1) of Section 6. In order D to understand the meaning of the Word 'therein' in our view, it is necessary to refer to the preceding words 'the Board or the mutawali of the Wakf'. The word 'therein' must necessarily refer to the Wakf which immediately precedes it. It cannot refer to the 'Wakf property'. Sub-section (1) of Section 6 enumerates the persons who can file suits E and also the questions in respect of which such suits can be filed. In enumerating the persons who are empowered to file suits under this provision, only the Board, the mutawalli of the Wakf, and 'any person interested therein', thereby necessarily meaning any person interested in the Wakf, are listed, it should be borne in mind that the Act deals with Wakfs, its institutions and its properties. It would, therefore, be F logical and reasonable to infer that its provisions empower only those who are interested in the Wakf, to institute suits."

While coming to the above said conclusion, this Court relied on an earlier decision in *Sirrah Ha Khan* v. *The Sunnii Central Board of Wakf, U.P.*, G [1959] SCR 1287.

In the present case before us, therefore, the dispute not being one between the wakf and Mutawalli or the persons claiming under him, but with a stranger (the Panchayat) the decision in *Sayyed Ali* v. *Wakf Board Hyderabad,* [1998] 2 SCC 642 (supra) cannot be applied. Thus the said decision is clearly H distinguishable and is not applicable to the facts before us. On the other

hand, the present case before us is clearly covered by the decision of the three Judge Bench of this Court in *Board of Muslim Wakf, Rajasthan* v. *Radha Kishan and Ors.*, [1979] 2 SCC 468, for the reasons given above.

We therefore, hold that the first proviso to clause (1) of Section 6 referred to above would not come in the way of the Assistant Collector and the Collector to decide, in the dispute raised by a third party like the Panchayat, whether the property is a modern Wakf or not.

Learned counsel for the appellant also referred to the Explanation added below to sub-section (1) of Section 6 of the Wakf Act, 1954, by the Central Act, 69 of 1984. The Explanation reads as follows :-

> *"Explanation :*
>
> For the purpose of this section and Section 6-A, the expression "any person interested therein", occurring in sub-section (1) of this Section and in sub-section (1) of Section 6-A, shall, in relation to any property specified as Wakf property in a list of Wakfs published, under sub-section (2) of Section 5, after the commencement of the Wakf (Amendment) Act, 1984, shall include also every person who, though not interested in the Wakf concerned, is interested in such property and to whom a reasonable opportunity had been afforded to represent his case by notice served on him in that behalf during the course of the relevant inquiry under Section 4".

Obviously, the intention of Parliament was to say that if a suit was not filed within one year, the Notification would be binding not only on those interested in the trust but even strangers, claiming interest in the property in question, provided they were given notice in the inquiry under Section 4 preceding the Notification under Section 5(2).

In this connection, we have to point out that the Government of India has not issued any date for commencement of the Explanation in Section 6 of the Wakf Act quoted above. Even if it is assumed that the Explanation can be invoked, there is no material before us to show that any notice was issued to the Gram Panchayat before the issuance of the Notification, as required by the Explanation. If no notice was issued as required by the Notification, the Notification would not come in the way of a Civil Court to decide the question if raised between the Wakf and a third party, even if such a suit was filed beyond one year from the date of the Notification. Thus, once the Assistant

A Collector and the Collector had jurisdiction to decide, their decision became final and Section 13 of the Panchayat Act barred the Civil Suit filed by the Wakf Board.

We, therefore, hold this point in favour of the respondent that the present suit by the Wakf Board was barred under Section 13 of the Punjab B Village Common Lands (Regulations) Act, 1961. Point 1 held in favour of respondent.

Point No. 2. The learned counsel for the appellant then placed reliance upon the definition of 'Shamilat Deh' in Section (2)(g) of the Punjab Village C Common Lands (Regulations) Act, 1961 and contended that this land was not being used for community purposes and that therefore it stood excluded from Section 2(g) and therefore the Assistant Collector or Collector could not have decided any question relating to cases of land which was not 'shamilat deh'. We shall refer to the relevant part of Section 2(g).

D "*Section 2(g).* Shamilat deh' includes-

(1) ..... (2) .....

(3) Lands described in the revenue records as shamilat tarafs, patties, pannas and tholas and used according to revenue records for the E benefit of the village community or a part thereof or for common purposes of the village;

(4) ..... (4)(a) .....

(5) Lands in any village described as banjar qadim and used for F common purposes of the villages according to revenue records;

Provided that.....

But does not include land which-

(i) ..... (ii) ..... (iii) ..... (iv) .....

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(v) is described in the revenue records as shamilat taraf, pattis, pannas or thola and not used according to revenue records for the benefit of the village community or a part thereof or for common purposes of the village".

H If the land was shown in the village records as act being used for the

benefit of the community, then this contention for the appellant plaintiff is that Section 13 would not bar the Civil Suit. This is because in such a case, the land will not be '*shamilat deh*'. But, on facts, the appellant has no case.

In this connection, we may refer to the findings recorded by the Assistant Collector that the *revenue records show that the Gram Panchayat is the owner and also that the property in question is being used for common purposes of the Gram Panchayat.* We have already extracted its above findings recorded by the Assistant Collector. The revenue records thus showed the land was being used by Village community. It is obvious from the definition of *'Shamilat Deh'* in Section 2(g) of the Punjab Village Common Land (Regulations) Act, 1961 that the land in question did not fall within the exclusionary part of the definition. Therefore, the land was 'Shamilat deh' and was being used as such as per the revenue records. Thus, Section 13 of the Act would apply and preclude a suit by the Wakf Board.

We, therefore, hold point No. 2 against the appellant.

For the aforesaid reasons, the appeal fails and is dismissed. There shall be no order as to costs.

VM. Appeals dismissed.