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**Waqf Act 1995 Chapter VIII - Judicial Proceeding**

**83. Constitution of Tribunals, etc:**

**(1) The State Government shall, by notification in the Official Gazette, constitute as many Tribunals as it may think fit, for the determination of any dispute, question or other matter relating to a waqf or waqf property, eviction of a tenant or determination of rights and obligations of the lessor and the lessee of such property, under this Act and define the local limits and jurisdiction of such Tribunals.**

**(2) Any mutawalli person interested in a waqf or any other person aggrieved by an order made under this Act, or rules made thereunder, may make an application within the time specified in this Act or where no such time has been specified, within such time as may be prescribed, to the Tribunal for the determination of any dispute, question or other matter relating to the waqf.**

**(3) Where any application made under sub-section (1) relates to any waqf property which falls within the territorial limits of the jurisdiction of two or more Tribunals, such application may be made to the Tribunal within the local limits of whose jurisdiction the mutawalli or any one of the mutawallis of the waqf actually and voluntarily resides, carries on business or personally works for gain, and, where any such application is made to the Tribunal aforesaid, the other Tribunal or Tribunals having jurisdiction shall not entertain any application for the determination of such dispute, question or other matter:**

**Provided that the State Government may, if it is of opinion that it is expedient in the interest of the waqf or any other**

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**person interested in the waqf or the waqf property to transfer such application to any other Tribunal having jurisdiction for the determination of the dispute, question or other matter relating to such waqf or waqf property, transfer such application to any other Tribunal having jurisdiction, and, on such transfer, the Tribunal to which the application is so transferred shall deal with the application from the stage which was reached before the Tribunal from which the application has been so transferred, except where the Tribunal is of opinion that it is necessary in the interest of justice to deal with the application afresh.**

**(4) Every Tribunal shall consist of—**

**(a) one person, who shall be a member of the State Judicial Service holding a rank, not below that of a District, Sessions or Civil Judge, Class I, who shall be the Chairman;**

**(b) one person, who shall be an officer from the State Civil Services equivalent in rank to that of the Additional District Magistrate, Member;**

**(c) one person having knowledge of Muslim law and jurisprudence, Member; and the appointment of every such person shall be made either by name or by designation.**

**(4A) The terms and conditions of appointment including the salaries and allowances payable to the Chairman and other members other than persons appointed as ex officio members shall be such as may be prescribed.**

**(5) The Tribunal shall be deemed to be a civil court and shall have the same powers as may be exercised by a civil court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, or executing a decree or order.**

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**(6) Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), the Tribunal shall follow such procedure as may be prescribed.**

**(7) The decision of the Tribunal shall be final and binding upon the parties to the application and it shall have the force of a decree made by a civil court.**

**(8) The execution of any decision of the Tribunal shall be made by the civil court to which such decision is sent for execution in accordance with the provisions of the Code of Civil Procedure, 1908 (5 of 1908).**

**(9) No appeal shall lie against any decision or order whether interim or otherwise, given or made by the Tribunal:**

**Provided that a High Court may, on its own motion or on the application of the Board or any person aggrieved, call for and examine the records relating to any dispute, question or other matter which has been determined by the Tribunal for the purpose of satisfying itself as to the correctness, legality or propriety of such determination and may confirm, reverse or modify such determination or pass such other order as it may think fit.**

**84. Tribunal to hold proceedings expeditiously and to furnish to the parties copies of its decision:**

**Whenever an application is made to a Tribunal for the determination of any dispute, question or other matter relating to a waqf or waqf property it shall hold its proceedings as expeditiously as possible and shall as soon as practicable, on the conclusion of the hearing of such matter give its decision in writing and furnish a copy of such decision to each of the parties to the dispute.**

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**85. Bar of jurisdiction of civil courts:**

No suit or other legal proceeding shall lie in any civil court, revenue court and any other authority in respect of any dispute, question or other matter relating to any waqf, waqf property or other matter which is required by or under this Act to be determined by a Tribunal.

**86. Appointment of a receiver in certain cases:**

Notwithstanding anything contained in the Code of Civil Procedure, 1908 (5 of 1908), or in any other law for the time being in force, where any suit or other legal proceeding is instituted or commenced—

(a) by or on behalf of a Board—

(i) to set aside the sale of any immovable property, which is waqf property, in execution of a decree or order of a civil court;

(ii) to set aside the transfer of any immovable property, which is waqf property, made by the mutawalli thereof, whether for valuable consideration or not, without or otherwise than in accordance with, the sanction of the Board;

(iii) to recover possession of the property referred to in clause (a) or clause (b) or to restore possession of such property to the mutawalli of the concerned waqf; or

(b) by a mutawalli to recover possession of immovable property, which is waqf property, which has been transferred by a previous mutawalli or by any other person, whether for valuable consideration or not, without otherwise than in accordance with the sanction of the Board, and which is in the possession of the defendant,

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the court may, on the application of the plaintiff, appoint a receiver of such property and direct such receiver to pay from time to time to the plaintiff, out of the income of the property, such amount as the court may consider to be necessary for further prosecution of the suit.

**88. Bar to challenge the validity of any notification, etc:**

Save as otherwise expressly provided in this Act, no notification or order or decision made, proceeding or action taken, by the Central Government or the State Government under this Act or any rule made thereunder shall be questioned in any Civil Court.

**89. Notice of suits by parties against Board:**

No suit shall be instituted against the Board in respect of any act purporting to be done by it in pursuance of this Act or of any rules made thereunder, until the expiration of two months next after notice in writing has been delivered to, or left at, the office of the Board, stating the cause of action, the name, description and place of residence of the plaintiff and the relief which he claims; and the plaint shall contain a statement that such notice has been so delivered or left.

**90. Notice of suits, etc., by courts:**

(1) In every suit or proceeding relating to a title to or possession of a waqf property or the right of a mutawalli or beneficiary, the court or Tribunal Shall issue notice to the Board at the cost of the party instituting such suit or proceeding.

(2) Whenever any waqf property is notified for sale in execution of a decree of a civil court or for the recovery of

any revenue, cess, rates of taxes due to the Government or any local authority, notice shall be given to the Board by the court, Collector or other person under whose order the sale is notified.

(3) In the absence of a notice under sub-section (1), any decree or order passed in the suit or proceeding shall be declared void, if the Board, within six month of its coming to know of such suit or proceeding, applies to the court in this behalf.

(4) In the absence of a notice under sub-section (2), the sale shall be declared void, if the Board, within one month of its coming to know of the sale, applies in this behalf to the court or other authority under whose order the sale was held.

**91. Proceedings under Act 1 of 1894:**

(1) If, in the course of proceedings under the Land Acquisition Act, 1894 or under any law for the time being in force relating to the acquisition of land or other property, and before an award is made, in case the property under acquisition is waqf property, a notice of such acquisition shall be served by Collector on the Board and further proceedings shall be stayed to enable the Board to appear and plead as a party to the proceeding at any time within Three months from the date of the receipt of such notice.

**Explanation.—**The reference to the Collector in the foregoing provisions of this sub-section shall, in relation to any other law referred to therein, be construed, if the Collector is not the competent authority under such other law to make an award of the compensation or other amount payable for acquisition of land or other property thereunder, as a

reference to the authority under such other law competent to make such award.

(2) Where the Board has reason to believe that any property under acquisition is waqf property, it may at any time before the award is made appear and plead as a party to the proceeding.

(3) When the Board has appeared under the provisions of sub-section (1) or sub-section (2), no order shall be passed under section 31 or section 32 of the Land Acquisition Act, 1894 or under the corresponding provisions of the other law referred to in sub-section (1) without giving an opportunity to the Board to be heard.

(4) Any order passed under section 31 or section 32 of the Land Acquisition Act, 1894 or under the corresponding provisions of the other law referred to in sub-section (1) without giving an opportunity to the Board to be heard, shall be declared void if the Board, within one month of its coming to know of the order, applies in this behalf to the authority which made the order.

**92. Board to be party to suit or proceeding:**

In any suit or proceeding in respect of a waqf or any waqf property the Board may appear and plead as a party to the suit or proceeding.

**93. Bar to compromise of suits by or against mutawallis:**

No suit or proceeding in any court by or against the mutawalli of a waqf relating to title to waqf property or the rights of the mutawalli shall be compromised without the sanction of the Board.

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**94. Power to make application to the Tribunal in case of failure of mutawalli to discharge his duties:**

(1) Where a mutawalli is under an obligation to perform any act which is recognised by Muslim law as pious, religious or charitable and the mutawalli fails to perform such act, the Board may apply to the Tribunal for an order directing the mutawalli to pay to the Board or to any person authorised by the Board in this behalf the amount necessary for the performance of such act.

(2) Where a mutawalli is under an obligation to discharge any other duties imposed on him under the waqf and the mutawalli wilfully fails to discharge such duties, the Board or any person interested in the waqf may make an application to the Tribunal and the Tribunal may pass such order thereon as it thinks fit.

**95. Power of appellate authority to entertain appeal after expiry of specified period:**

Where, under this Act any period has been specified for the filing of any appeal, the appellate authority may, if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal within the period so specified, entertain the appeal after the expiry of the said period.

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