

Wakf Act, 1954

Section 15D - CONDITIONAL ATTACHMENT BY TRIBUNAL

1) Where the Wakf Commissioner is satisfied that the mutawalli or any other person who has been ordered under sub-section (3) or sub-section (5) of section 15B-to make any payment, with intent to defeat or delay the execution of the said order,- (a) is about to dispose of the whole or any part of his property, or (b) is about to remove the whole or any part of his property from the jurisdiction of the Wakf Commissioner, he may apply to the Tribunal for the conditional attachment of the said property or such part thereof as he may think necessary. (2) The Wakf Commissioner shall, unless the Tribunal otherwise directs specify in the application the property required to be attached and the estimated value thereof. (3) The Tribunal may direct the mutawalli or the person concerned, as the case may be, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Tribunal, when required, the said property or the value of the same or such portion thereof as may be sufficient to satisfy the amount specified in the certificate referred to in section 15C-, or to appear and show cause why he should not furnish such security. (4) The Tribunal may also in the order direct the conditional attachment of the whole Or any portion of the property so specified. (5) Every attachment made under this section shall be made in accordance with the provisions of the Code of Civil Procedure, 1908-, as if it were an order for attachment made under the provision of the said Code. (6) If any attachment is made without complying with the provision of sub-section (3), such attachment shall be void. ".] OBJECTS AND REASONS "The Committee feel that it should be clearly brought out that the main function of the Board is to ensure that the income and property of the wakf are applied to the objects and for the purposes for which the wakf was created or intended and that in performing its functions, the Board should act in conformity with the directions of the Wakif. It is also necessary to provide that when the Board settles any scheme of management for a wakf or directs in accordance with the cy pres doctrine in what manner the income of a wakf or surplus income thereof Should be utilised, an opportunity should be given to the parties affected to represent their cases before the Board, Moreover, the aggrieved parties should have the liberty to file a civil suit for setting aside the decision of the Board. When the Board has to decide in accordance Conditional attachment by Tribunal with the cy pres doctrine how the income or surplus .income of a wakf should be utilised, the functions of the Board should be exercised- (i) in the case of a Shia Wakf, by the Shia members of the Board only; and (ii) in the case of a Sunni wakf, by the Sunni members of the Board only. The Committee feel that there may be some Boards where there may not be an adequate number of Shia members or Sunni members and in such a case, the Board may co-opt persons who are Shias or Sunnis, as the case may be, to be temporary members of the Board for exercising its powers for the aforesaid purpose only. In order that the Board may have effective control over the administration of wakfs the Committee consider that the Board should be given power to scrutinise and approve the budgets submitted to it by mutawallis. The Board should also arrange for the auditing of accounts of wakfs. These provisions have accordingly been incorporated in this clause."-S.C.R. (1954).