

Court No. - 33

Case :- MATTERS UNDER ARTICLE 227 No. - 634 of 2017

Petitioner :- Waqf Qabristan Badshah Quli

Respondent :- A.D.J. S.D. And 3 Others

Counsel for Petitioner :- Puneet Bhadauria

Counsel for Respondent :- Manish Goyal ,Manish Goyal,Onkar Nath
Vishwakarma,Pradeep Kumar,Praveen Kumar,Punit Kumar Gupta,Shruti Malviya

Hon'ble J.J. Munir,J.

Heard Mr. Puneet Bhadauria, learned Counsel for the petitioner, Mr. Pradeep Kumar, learned Counsel appearing for the Nagar Palika Parishad and Ms. Shruti Malviya, learned Counsel for the Life Insurance Corporation of India.

This petition under Article 227 of the Constitution has been filed seeking the following reliefs:

“It is, therefore most respectfully prayed that this Hon'ble Court may be pleased to;

1. Issue a direction, directing the respondent No.-1 to stay the further proceeding of the execution case being no. 01 of 2011 (Life Insurance Corporation of India versus Nagar Palika Parishad Etawah and Others) until and unless petitioner's objections under Order 21 rule 97 has not been finally adjudicated pending before the Waqf Tribunal at Lucknow or direct the Waqf Tribunal Lucknow to transfer the misc. case being no. 21 of 2011 (Waqf Qabristan versus Life Insurance Corporation) to the concerning court so that both the case may hear altogether and matter may be adjudicate in proper and due manner,
2. Any other writ, order or direction that this Hon'ble Court may deem fit, just and proper in the circumstances of the case, may also be passed favouring the applicant.
3. Allow the writ petition with costs.”

A perusal of this relief would show that there are alternate prayers. The first is that the proceedings of the Execution Case No. 01 of 2011, Life Insurance Corporation of India v. Nagar Palika Parishad, Etawah and others, be stayed until decision of the petitioner's objections under Order 21 of Rule 97 C.P.C. pending before the Waqf Tribunal at Lucknow. The alternate prayer is that Miscellaneous Case No. 21 of 2011, Waqf Qabristan vs. Life Insurance Corporation of India, arising out of the objections under Order 21 Rule 97 C.P.C. be transferred to the Civil Court where Execution Case No. 1 of 2011 is proceeding so that both the cases could be heard and decided together.

The decree for specific performance in this case was passed by the Civil Court and, therefore, execution *inter partes*, that is to say, between Life Insurance Corporation of India and the Nagar Palika Parishad Etawah, were instituted before the Civil Court and is proceeding there. The petitioner setting up an independent right in themselves - independent of the judgment- debtor that have filed third party objection under Order 21 Rule 97 C.P.C. before the Waqf Tribunal. Since execution was proceeding before the Civil Court whereas the petitioner's objections under Order 21 Rule 97 were pending before the Tribunal, the petitioner alleged *prejudice* as a third party objector. He, therefore, moved this Court for the reliefs above indicated.

Now, that the proceedings of the third party objections under Order 21 Rule 97 C.P.C. have ultimately been transferred to the Executing Court that passed the decree, nothing survives for adjudication in this petition. It is however, provided considering the interest of parties that the Executing Court shall expedite proceedings both relating to the objections and the execution in accordance with law after hearing parties and decide the same at the earliest.

This petition is **disposed of** in terms of the above.

Let this order be communicated to the Civil Judge (Senior Division) concerned through the District Judge, Farrukhabad by the Registrar (Compliance).

Order Date :- 3.11.2023

Vijay