

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

PRESENT

THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.24206 OF 1999

DATED: 28.10.2015

Between:

Shaik Nissar Ahmed

... Petitioner

and

A.P. State Wakf Board and another

... Respondents

**THE HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
THE HON'BLE SRI JUSTICE S.V.BHATT**

WRIT PETITION No.24206 of 1999

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ORDER: (per the Hon'ble The Acting Chief Justice Dilip B. Bhosale)

Heard Sri J.Prabhakar, learned counsel for the petitioner.

None appears for the respondents.

This Writ Petition impugns the proceeding/order dated 23.10.1999 issued under Section 54(3) of the Wakf Act, 1995 (for short 'the Act') whereby the respondents directed the petitioner to vacate two shops bearing No.9-4-134/1 at Kasba Bazar, Khammam, holding him to be an encroacher and to deliver possession to the Inspector/Auditor on or before 22.11.1999.

The impugned proceeding was suspended at the time of admission of the Writ Petition and the order of suspension operates till this date.

The impugned proceeding, dated 23.10.1999 reads thus:

“ANDHRA PRADESH STATE WAKF BOARD

Manoranjan Complex
2nd and 3rd Floor-M4
Ajanta gate, Exhibition
ground, Hyd.

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No.353/Pro/Khm/96.

dt.23-10-99.

P R O C E E D I N G S:

Present:- S.S.IQBAL RAZVI
Chief Executive Officer,
A.P.S. Wakf Board, Hyd.

Subject:- Wakfs – Khammam – District – Khammam mandal
Khasba Bazar village – Eviction order u/sec-54
(3) of wakf Act – Issued – Regarding.

R e a d:- Notice of even No.dt.28-8-99.

.. -- ..

It is brought to the notice of the wakf Board that Sri Nisar Ahmed unauthorisedly encroached wakf land belonging to Ashurkhana panjatanpak.

Notice under Section-54(1) of wakf Act-1995 was issued to the above person calling upon him to Show cause within (10) days from the date of receipt.

The above notice was served on the individual on 10-09-99.

No objections have been received with the prescribed date. The matter has been examined on the basis of records available. The above property is wakf. In view of the above, it is obvious that Sri Nisar Ahmed has wilfully and unauthorisedly encroached wakf land is liable to be evicted.

Hence in exercise of powers conferred on me under Section-54(3) of the Wakf Act, I hereby order Sri Nisar Ahmed to remove the above said encroachment and deliver possession of the land/building to the Inspector-Auditor on or before 22-11-99.

Chief Executive Officer.”

Before issuance of the impugned proceeding, dated 23.10.1999, a show cause notice, dated 28.08.1999 under Section 54(1) of the Act was issued to the petitioner, which according to the petitioner was received by him on 10.09.1999. He replied to the show cause notice on 15.09.1999. It appears from the impugned proceedings, according to the respondents, show cause notice, dated 28.08.1999, was not replied within the stipulated time and hence, though the reply was received by the respondents,

they did not take it into consideration while passing the impugned proceeding, dated 23.10.999.

In this backdrop and having considered the fact that the petitioner's possession has been protected by virtue of the order of this Court dated 30.11.1999, we are satisfied that the following order shall meet the ends of justice.

"The impugned proceeding, dated 23.10.1999 is set aside. It is open to the respondents to either pass fresh order after taking into consideration the reply to the show cause notice and following the due procedure contemplated by Section 54 of the Act or issue a fresh show cause notice under Section 54(1) of the Act and take it to its logical conclusion in accordance with law. This observation shall not be treated as direction to the respondents. It is open for them to take appropriate decision in accordance with law. All contentions on merits are kept open."

Writ Petition is accordingly allowed.

Consequently, miscellaneous petitions, if any, also stand disposed of. No order as to costs.

DILIP B. BHOSALE, ACJ

28th OCTOBER, 2015.

S.V. BHATT, J

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