

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

Writ Petition No.35660 of 2015

-

Dated 17th November, 2015

Between:

Syed Siraj Ahammed

...Petitioner

And

The Andhra Pradesh State Wakf Board, Hajj House, Nampally, Hyderabad rep.by its
Chairman and others

...Respondents

Counsel for the petitioner: Sri S.A.Razack

Counsel for respondent No.2: Sri Mohd.Habeebur Rahman

The Court made the following:

ORDER:

This writ petition is filed feeling aggrieved by Memo bearing
F.No.30/Redg/PKM/2014/Z-V, dated 04.09.2015, of respondent No.2.

I have heard Sri S.A.Razack, learned counsel for the petitioner, and perused the record.

The petitioner filed an application before respondent No.2 under Section 36 of the Wakf Act, 1995 (for short 'the Act') for registration of a certain property under his Towliath. While considering the said application, respondent No.2 has issued two separate Memos, both bearing the same date. In the first Memo, respondent No.2 has held that in the village map of the year 1929 issued by the Central Survey Office of Hyderabad, it is clear that the Eidgah in question existed in Survey No.875 of Kandukur town, that from the age old RSR of Kandukur village, it is evident that an extent of Acs.6.90 cents in Survey No.875/1A of Kandukur town is classified as Inam land and that the subject Mosque is in fact constructed within the Inam land to facilitate the local Muslim public. Respondent No.2 has further held that the claim of the petitioner that the above-mentioned property belongs to his ancestors is false and that the Mosque has been constructed on the contributions and donations offered by the local interested public. In the second Memo, respondent No.2 has directed the Inspector Auditor Wakfs, Prakasham District to produce certain documents mentioned therein for the purpose of registration of the Mosque under Section 36 of the Act under the Towliath of A.P.State Wakf Board.

From the contents of the above-mentioned two Memos issued by respondent No.2, it is evident that the dispute arising in this writ petition is whether the property in question is the personal property of the petitioner or the same is a wakf property.

In my opinion, the writ petition is misconceived for the reason that under Section 83(2) of the Act, the petitioner has an effective remedy of approaching the Wakf Tribunal for determination of any dispute, question or other matter arising out of an order passed under the Act. Under Section 7 of the Act also, the Wakf Tribunal has power to determine as to whether a particular property is a wakf property or not. As adjudication of the dispute raised by the petitioner in this writ petition requires appreciation of evidence pertaining to title, it is not possible for this Court to adjudicate such dispute in exercise of its jurisdiction under Article 226 of the Constitution of India.

As the petitioner is left with an effective remedy under the above-mentioned provisions, the writ petition is dismissed without expressing any opinion on the merits of the case with liberty to the petitioner to avail the alternative remedy as

observed above.

As a sequel to dismissal of the writ petition, W.P.M.P.No.45815 of 2015 shall stand disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

17th November, 2015

VGB