

**HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

**Writ Petition No.19608 of 2011**

**Date: 15-09-2015**

Between:

Jamia Masjid Meer Saheb,

.... Petitioner

AND

The State of Andhra Pradesh, represented by

its Chief Secretary, Revenue Department,

Secretariat, Hyderabad and 3 others

.... Respondents

**HON'BLE SRI JUSTICE C. PRAVEEN KUMAR**

**Writ Petition No.19608 of 2011**

**ORDER:**

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Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue. With the consent of both parties, the writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of respondents 1, 2 and 4 in preventing the encroachment made by the 3<sup>rd</sup> respondent into the land of Masjid of the petitioner situated in Survey No.7 to 10 at Karmanghat village, Saroornagar Revenue Mandal, Ranga Reddy District as arbitrary and illegal and

consequently to direct the respondents to take action against the 3<sup>rd</sup> respondent for creating disturbance and encroaching into the property of Masjid of the petitioner.

The petitioner herein claiming to be a Mutawalli of Jamia Masjid filed the writ petition alleging that the 3<sup>rd</sup> respondent herein, claiming rights over the land surrounding the Masjid, temple and grave yard with an intention to occupy the land, tried to construct a wall which was resisted by them. Later, the petitioners made a representation on 29-08-2008 to the District Collector requesting him to take action for safeguarding the masjid property against the land grabbers, who, under the guise of the 3<sup>rd</sup> respondent, have been trying to forcibly occupy the land and to demolish the existing graves on the ground. It is stated that they also made a complaint to the Station House Officer, L.B. Nagar police station on 31-05-2008 requesting them to take action against the grabbers. It is further stated that in spite of giving several complaints, no action has been taken to prevent the 3<sup>rd</sup> respondent from encroaching and grabbing the masjid property nor any survey was conducted. It is further averred that the petitioner society secured a certified copy of the sale deed executed in favour of the Defence Scientist Cooperative Society and the recitals of the said sale deed show that as on the date of their purchase, the existence of Masjid, temple and grave yard was clearly mentioned in the sale deed. As such, it is averred that the 3<sup>rd</sup> respondent cannot plead ignorance about the existence of the ancient mosque as well as the grave yard and temple on the property. It is further alleged that the 3<sup>rd</sup> respondent with the active assistance of the 4<sup>th</sup> respondent converted the open area abutting the Masjid as park and also constructed shops and toilets on the backside of the tombs, thereby provoking the sentiments of the Muslims. Aggrieved by the said inaction, the petitioner society filed the present writ petition.

A counter came to be filed by the 3<sup>rd</sup> respondent denying the allegations of the petitioner society. It is averred in the counter that the 3<sup>rd</sup> respondent society is the absolute owner and possessor of Ac.25.40 guntas with standing trees, structures, buildings excluding grave on raised platform, Mosque and temple being part of the land of Mir Sahib Baig situated in Karmanghat village, Hyderabad, East Taluk, Hyderabad District comprising of Survey Nos.7/1, 7/2,

8 to 10 admeasuring Ac.12, Ac.17, Ac.1.00, Ac.2.16, Ac.3.17, Ac.5.31 as per the document No.4931/1967 which is part of the record filed by the petitioner. The 3<sup>rd</sup> respondent further stated that their society gifted an extent of 3,300 square yards around Mosque without any consideration through Memorandum of Undertaking dated 09-10-2003. Hence it is contended that there are no merits in the writ petition.

Though various grounds are raised in the writ petition, the learned counsel for the petitioner restricts his prayer seeking a direction to the 2<sup>nd</sup> respondent to pass appropriate order on the representation made by the petitioner in the year 2003 seeking protection of the land.

It is to be noted that even according to the petitioner, as the graveyard was converted into open land by removing the structures therein, the 2<sup>nd</sup> respondent would not do anything at this point of time. Be that as it may, the material placed by the 3<sup>rd</sup> respondent would show that there was an understanding between the 3<sup>rd</sup> respondent, the A.P. Wakf Board, Hyderabad, and the Managing Committee of the Mosque and Darga (Meer Sab Mosque) situated at Karmanghat village, Saroornagar Mandal, Ranga Reddy District, on 09-10-2003 and the recitals of the said MOU indicate settlement of dispute between the parties whereby the third respondent agreed to gift an area of 3,300 square yards around Mosque without any charges, which includes the area of Mosque, Darga and Grave yard and the Wakf Board and the Managing Committee of Mosque do not have any further right or claim over the remaining lands of the society and the said gifted land is to be used strictly for religious purposes only as undertaken by the Managing Committee of the Mosque. Apart from the said MOU, a sale deed dated 29-09-1967 was also placed on record to show sale of Ac25.4 guntas, a part of the Garden known as "Mir Saheb Bagh" situated at Karmanghat village, Hyderabad East Taluk, District Hyderabad in favour of the 3<sup>rd</sup> respondent society and the recitals of the said sale deed show that the property includes standing trees, structures, buildings, tombs, temples and idols etc., excluding the graves on raised platform, Mosque and Temple.

Therefore, viewed from any angle, the record clearly discloses that the 3<sup>rd</sup> respondent society gifted land admeasuring 3,300 square yards to the petitioner

society. That being the case, except the report alleged to have been given by the petitioner in 2003, no material has been placed before the Court to show that the 3<sup>rd</sup> respondent has interfered with the property in question, which is in possession of the petitioner. Apart from that, it is to be noted that the issues involved are purely disputed question of facts, which cannot be gone into under Article 226 of the Constitution of India.

Accordingly, the writ petition is dismissed leaving it open to the petitioner to avail the appropriate remedy available under the law in appropriate forum. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

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**C. PRAVEEN KUMAR, J**

Date: 15-09-2015

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