

THE HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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WRIT PETITION No.19880 OF 2009

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ORDER:

The present Writ Petition came to be filed seeking issuance of a writ of *mandamus* declaring the inaction of respondent Nos.2 and 3 in not complying with the requisition, dated 21.11.2007, made under Section 55 of the Wakf Act, 1995 and removing the encroachers over Chunnu Miyaa Graveyard wakf institution situated at Bholakpur, Musheerabad, as illegal and arbitrary.

2. On 17.09.2009 this Court while issuing *Rule Nisi*, directed the respondent Nos.2 and 3 to remove the illegal encroachment from Chennu Miyaa Grave Yard situated at Bholakpur, Musheerabad and hand over vacant possession to Inspector Auditor Wakf as per the requisition dated 21.11.2007.

3. The averments in the affidavit filed in support of the petition would show that the petitioner is resident of Bholakpur locality of Musheerabad, Hyderabad. In the said locality, there is a notified Sunni Muslim graveyard known as Chunnu Miyaa Grave Yard, which is used for burial of Muslim dead bodies and the said grave yard is a registered wakf property published in A.P. Gazette No.24-B, Supplement-II of 1982, Page-9, Sl.No.17. A writ petition vide W.P.No.17835 of 2006 was filed by the petitioner before this Court seeking *mandamus* declaring the inaction of the 1st respondent and the Government represented by its Principal Secretary, Minorities, Welfare Department, Secretariat, Hyderabad, in not protecting the registered Wakf property i.e., Chunnu Miyaa Grave yard situated at Bholakpur, Musheerabad, Hyderabad from encroachers. On 11.09.2006 this Court disposed of the writ petition with the following observations:

“At the stage of admission itself, the learned standing counsel for the Andhra Pradesh Wakf Board (Board, for short) submits that on 26-08-2006, the Chief Executive Officer of Board has already issued notices

under section 54(1) of the Wakf Act, 1995 to respondent No.3 and another person and that appropriate further action would be taken in accordance with sections 54(3) and 55 of the Act after expiry of period of fifteen days time. The same is recorded.”

In the year, 2008 the petitioner sought for information with regard to action taken against encroachers over the grave yard. He was informed through Public Information Officer that respondent No.1 had already issued notices to the encroachers under Section 54(1) of the Act and orders were passed under Section 54(3) of the Act. Thereafter, a requisition under Section 55 of the Act was made to the second respondent on 21.11.2007 for evicting the encroachers and to deliver the vacant possession of the wakf property to the Inspector Auditor Wakf. It is stated that though the requisition under Section 55 of the Act was made to respondent No.2 on 21.11.2007, till date no action has been taken against the encroachers. Hence, the present writ petition questioning the inaction of the respondents.

4. No counter has been filed by the respondents disputing the averments made in the writ petition.

5. Having regard to the averments made in the writ petition with regard to inaction of the respondents in not taking steps pursuant to the requisition made on 21.11.2007 under Section 55 of the Act, the Writ Petition is disposed of directing respondent Nos.2 and 3 to take action, in accordance with law, on the requisition, dated 21.11.2007 made under Section 55 of the Act, if the same is still pending consideration, at the earliest.

Consequently, Miscellaneous Petitions, if any, pending in this writ petition shall stand closed. There shall be no order as to costs.

JUSTICE C. PRAVEEN KUMAR

Date:24.11.2015

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