

HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE A.V. SESA SAI

WRIT APPEAL No. 75 OF 2016

04-02-2016

Between:

Mohd. Ismail Kauser

... Appellant

And

Telangana Wakf Board, Nampally, Hyderabad, rep., by its Chief
Executive Officer and others

... Respondents

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE

AND

HON'BLE SRI JUSTICE A.V. SESA SAI

-
WRIT APPEAL No. 75 OF 2016

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

Heard learned counsel for the appellant.

This writ appeal is directed against the order dated 03-12-2015 passed in Writ Petition No.39268 of 2015, whereby learned single Judge has dismissed the said writ petition allowing the appellant to make an application for his impleadment in Writ Petition No.28944 of 2014.

In the instant writ petition, the appellant prays for mandamus declaring the action of respondent No.1 i.e., Wakf Board in not removing the encroachments made by respondent No.3 and not demolishing the unauthorised construction made by him in the property, which according to the appellant belongs to the wakf, as illegal and arbitrary. Learned Judge after having considered the averments in paragraph 4 of the affidavit in support of the writ petition, and after having noticed that Writ Petition No.28944 of 2014 has been filed by respondent No.3 against the notice issued by the Greater Hyderabad Municipal Corporation for demolition of the very same unauthorised structure referred to in the present writ petition, disposed of the writ petition with the following observations:

“In my opinion, when the issue raised in the Writ Petition is already *sub judice* in another Writ Petition, it is not permissible for the petitioner to institute this Writ Petition touching the same subject matter. If the petitioner is so interested, he can pursue the said Writ Petition and in the

event of its dismissal, he can approach respondent No.1 for resuming the action already initiated by it.”

In view thereof, we are not inclined to interfere with the order passed by learned single Judge. It is open to the appellant to make an application seeking impleadment in the said writ petition. More over, the appellant can also take a remedy, if any, under the provisions of the Wakf Act, 1954 for redressal of his grievance.

The writ appeal is dismissed.

Miscellaneous petitions, if any, also stand disposed of.

DILIP B. BHOSALE, ACJ

A.V. SESA SAI, J

04-02-2016

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