

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

W.P. No. 34801 OF 2012

ORDER :

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This writ petition is filed seeking writ of mandamus declaring the order passed by the 3rd respondent vide proceedings No.C/B/3299/2012, dated 03.11.2012, wherein the 3rd respondent directed the Mandal Revenue Inspector to evict the petitioners from the Wakf land and handover the property to the Wakf Inspector, Hanamkonda undercover panchanama, as illegal and arbitrary.

2. Learned counsel for the petitioners submits that the 3rd respondent has no power or jurisdiction to initiate proceedings under the Land Encroachment Act, 1905 (for short 'the Act of 1905') in respect of the Wakf lands and the impugned order is passed by invoking Section 7 of the Act of 1905. This Court while granting interim order on 07.11.2012 also observed the same.

3. Counter affidavit is filed by the 4th respondent-Wakf Board stating that notices were issued to the petitioners under Sections 54 (1) and 54(3) of the Wakf Act, 1995 when they encroached Wakf land. When they failed to vacate the Wakf land and handover the same to the Wakf Board, the Chief Executive Officer applied to Revenue Divisional Officer on 08.04.2009, who in turn passed orders of eviction dated 03.11.2012.

4. Learned counsel for the Wakf Board submits that a copy of the order dated 24.01.2009 is passed by the Chief Executive Officer under Section 54 (3) of the Wakf Act, 1995. However the impugned order does not reflect about the order dated 24.01.2009. A perusal of the impugned order goes to show that the said property is alleged to be a Wakf property and the Tahsildar,

Hanamkonda, without having valid jurisdiction, straight away initiated proceedings under Land Encroachment Act. The impugned order also does not reflect about the CEO approaching the 3rd respondent under Section 55 of the Wakf Act.

In view of above, the impugned order is liable to be set aside and accordingly set aside. However, this order will not preclude the Wakf Board from taking steps under Wakf Act, 1995 by following due procedure.

With the above direction this writ petition is allowed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending in this writ petition shall stand closed.

01.04.2016.
kvs

A.RAJASHEKER REDDY, J

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

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