

THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION No. 13562 of 2016

ORDER:

Heard Sri Shafath Ahmed Khan, learned counsel for the petitioner, and Sri Arifulla, learned Standing Counsel for the A.P State Wakf Board.

The prayer of the petitioner in this case is as under:

“This Hon’ble Court may be pleased to issue an appropriate writ order or direction, more particularly a writ in the nature of writ of Mandamus declaring the action of the 2nd Respondent in issuing impugned notice of eviction in F.No.R4/5/Rent/DCB/ATP/2014 dt: 14.03.2016 to the petitioner in respect of the Shop No.11-372 Jamia Masjid Complex, Main Bazaar, Pamidi Town, Anantapur District, without issue of show cause notice as per Section 54(1) of the Wakf Act 1995 as arbitrary illegal and in violation of Section 54(1) of Wakf Act 1995 and Article 14 of the Constitution of India and in violation of Principles of Natural Justice and consequently set aside the impugned notice of eviction in F.No.R4/5/Rent/DCB/ATP/2014 dt: 14.03.2016 and to direct the 2nd Respondent not to evict the petitioner high handedly without following the procedure laid down in Section 54 of the Wakf Act, 1995 in the interest of justice and to pass such other order or orders, as the court may deems fit and proper in the circumstances of the case.”

Perusal of the impugned notice dated 14.03.2016 reflects that the Wakf Board straightaway directed the petitioner to vacate the premises within 15 days. There is no mention of any statutory provision on the basis of which the notice was issued.

In the event the Wakf Board treats the petitioner as an encroacher, it necessarily has to follow the due procedure prescribed under the Wakf Act, 1995, to remove him from possession. Without following the due procedure, the Wakf Board cannot resort to these extra-legal measures.

The impugned notice dated 14.03.2016 is accordingly set aside on this short ground. The Writ Petition is allowed. This order shall however not preclude the Wakf Board from initiating action afresh in

accordance with law.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

JUSTICE SANJAY KUMAR

Date: 21.04.2016

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