

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.33460 OF 2012

ORDER :

This petition is filed for a writ of *Mandamus* declaring the action of the respondent Nos.2 to 4 in interfering with the construction activity of the petitioner in premises bearing Nos.6-2-1, 6-2-1/A, 6-2-19/1/A, 6-2-19/1/C, 6-2-19/2/1(old house numbers) corresponding new Nos. 6-2-4 and 6-2-5 in Sy.Nos.264 and 265, situated at Krishnanagar, Khanapuram Haveli, Khammam Urban (M), Khammam District, without issuing any notice and without conducting any enquiry, as illegal and arbitrary and for a consequential direction to the respondents not to obstruct the construction activity of the petitioner which was commenced as per the permission granted by the Gram Panchayat.

The case of the petitioner is that he purchased land to an extent of 1082.48 Square Yards bearing premises Nos.6-2-1, 6-2-1/A, 6-2-19/1/A, 6-2-19/1/C, 6-2-19/2/1(old house numbers) corresponding new Nos. 6-2-4 and 6-2-5 in Sy.Nos.264 and 265, situated at Krishnanagar, Khanapuram Haveli, Khammam, through registered sale deed Nos.4056/2003, dated 16.07.2003; 4621/03 dated 18.08.2003; 7513/2004 dated 07.05.2004; 5948/04 dated 29.07.2004; 7514/2004 dated 30.07.2004; and 4509/05 dated 06.04.2005, from its rightful owners and possessors one Smt.Aluri Nagamani and others. Thereafter, the petitioner applied for permission for construction of commercial complex in the said premises and the Grampanchayat, Khanapuram Haveli has granted permission in RC.No.2271/09, dated 01.06.2009 and the said permission was renewed again on 03-06-2011 up to 31.05.2013. According to the

said permission, the petitioner has to complete the construction before May, 2013. While so, when the petitioner is proceeding with the construction, the respondent Nos. 2 to 4 and their subordinates started objecting the construction on the ground that the subject land belongs to Wakf property, without issuing any notice and without any enquiry. It is also stated that the entire land is a private property and that even the part of the land of petitioner's vendors was acquired by the Government for the purpose of laying R&B road for which the Government has paid compensation to them. It is further stated that in respect of the same survey numbers when the vendors of the petitioner were obstructed from construction, they filed WP.No.21840 of 2011 and this Court granted interim direction stating that unless proceedings are initiated before Wakf Tribunal and interim orders are passed therein, constructions undertaken by the petitioner on the basis of sanctioned plan cannot be interfered with. As such, the petitioner filed the present writ petition.

The 4th respondent filed counter stating that an extent of Ac.3.20 guntas in Survey no.264 and Ac.3.24 guntas in Survey No.265, total Ac.7.04 guntas is 'Inam' land belongs to Talim Masthan Darga and that Aluri Kallari and Aluri Mogala Mujavars were recorded as occupants for the aforesaid land and that the aforesaid land was notified as Wakf property through A.P.Gazette supplement to part-II No.4-A, dated 25.01.1990 at Sl.No.10704 in the name of DARGA TALIM(S)(14) with 0.29 guntas Darga area and an extent of Ac.7.04 guntas in Survey Nos. 264 & 265 in the names of Muthavalli are Aluri Kallari and Aluri Mogalaiah. As such, the land in Survey Nos.264 and 265 is an 'Inam' land of Darga and notified as Wakf property. It is further stated that either the

Muthavallis or their legal heirs are not entitled to sell away the subject land to any one and that the petitioner has not submitted any permission or 'no objection certificate' from the Wakf Board in support of his occupation and constructions over the Wakf land and that the registered sale deeds executed by Aluri Nagamani and others in favour of the petitioner are not valid as the executants of the sale documents are not rightful owners of the land. It is also stated that the Treasurer of Dargah Hzt.Moula Taleem Masthan (RH) has filed OS.No.143 of 2012 before the A.P.State Wakf Tribunal against the petitioner herein and two others and that the Tribunal has passed interim orders dated 03.12.2012 in IA.No.1258 of 2012, restraining the petitioner herein from making any construction in the schedule mentioned property until further orders. In view of the interim order, petitioner cannot make any construction and sought for dismissal of the writ petition.

Heard learned counsel for the petitioner and learned Assistant Government Pleader for Revenue and learned counsel for the implead petitioners.

In the present case, the petitioners are asserting that the property belongs to them having purchased the same through registered sale deeds. Respondents filed counter stating that the property is 'Inam' land belonging to Darga and notified as Wakf property and the Wakf Board has also filed suit in OS.No.143/2012 before the Wakf Tribunal and obtained injunction against the petitioner. But, the learned counsel for the petitioner states that the said injunction granted in IA.No.1258/2012 in OS.No.143/2012 is vacated later.

Whether the petitioner is the owner of the subject property

or whether the property is notified as Wakf Property are the disputed questions of fact which cannot be decided in the writ petition. Since already Wakf Board filed suit before the Wakf Tribunal, the petitioner and respondents can raise all their contentions before the Wakf Tribunal and the Tribunal may decide the suit in accordance with law.

Accordingly, the writ petition is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

24.02.2016

t k.