

THE HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 20722 of 2016

ORDER :

This Writ Petition came to be filed with the following prayer:

“...to issue a Writ of Mandamus or any other appropriate writ, order or direction, declaring Demand Notice F.No.R4/11/M.W. Complex/KNL/2014-DM, dated 21.4.2016 issued by the 1st respondent demanding the 1st petitioner to pay enhanced rent @ Rs.36,000/- for the Shops bearing Nos.124 to 130 (1st floor) situated in Door No.40/317, Mohammadiya Wakf Complex, Kurnool and demanding the 2nd petitioner to pay enhanced rent @ Rs.32,000/- for the Shop Nos. B2, 3, 5A, 6, 7, 14, 15 and D.11 situated in Door No.40/317, Mohammadiya Wakf Complex, Kurnool as illegal, excessive and arbitrary as they were given without obtaining consent of the tenants and set aside the same and consequently direct the 1st respondent to issue proceedings enhancing the existing rent @ 25% with subsequent increase of 5% every year, as agreed by the members of the Association/tenants in their letter dated 18.1.2016 and pass...”

2. Heard the learned counsel for the petitioners and the learned Standing Counsel for Wakf Board appearing for the respondents. At the request of both the counsel, the Writ Petition itself is taken up for disposal at the stage of admission.

3. Though various grounds are urged in the Writ

Petition, learned counsel for the petitioners mainly submits that the impugned enhancement of rent came to be made without giving hearing the petitioners. On the other hand, learned Standing Counsel appearing for respondents submits that the enhancement of rent was made after giving an opportunity to the members holding the shops in the complex. The same is refuted by the learned counsel for the petitioners stating that a representation dated 18.01.2016 was made by the Mohammadia Wakf Complex Merchants' Welfare Association, Kurnool stating that as per the agreement entered into between the Management Committee of the Wakf Board and the Association on 10.10.2012, the enhancement of rent is @ 25% for every five years, and as the last enhancement was made on 10.10.2012, which will be in force till completion of 5 years therefrom. It is said that any enhancement is against the letter and spirit of the agreement. But the Vice President and E.C. Member of the Association, on their own, gave a consent letter to the Chief Executive Officer, Wakf Board on 16.04.2016, basing on which the enhancement was made. Thus, it is contended that neither any opportunity was given nor the petitioners were heard, before enhancement of the rent by the respondents.

4. Admittedly an agreement was entered into between the Management Committee of the Wakf Board and the

Mohammadia Wakf Complex Merchants' Welfare Association, Kurnool on 10.10.2012. The material on record reveals that the petitioners were heard and after considering their representation, the rent was enhanced by 25% in the year 2012. The grievance of the petitioners is that no opportunity of hearing was being given to them prior to the present enhancement of rent. The record also *prima facie* discloses the same. That being the position, the petitioners shall make a fresh representation to respondent No.1 within a period of 10 days from today, in which event, the same shall be dealt with by the respondents in accordance with law after hearing the petitioners and all the concerned. Till such time, the Demand Notice in F.No.R4/11/M.W. Complex/KNL/2014-DM, dated 21.4.2016 issued by the 1st respondent shall be kept in abeyance. In case the petitioners fail to approach the authorities within the time as stipulated above, it is open to the authorities to proceed in accordance with law.

5. The Writ Petition is disposed of with the above observations. Miscellaneous petitions pending, if any, in the Writ Petition shall stand closed in the light of this final order. No order as to costs.

C.PRAVEEN KUMAR, J

28.06.2016

DRK

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