

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.33436 OF 2017

DATED : 06.10.2017

Between :

Shaik Saleem S/o.Late Shaik Saheb,
A/a.35 yrs, Occu : Private service,
R/o.H.No.5-6-761/2, Nampally,
Hyderabad.

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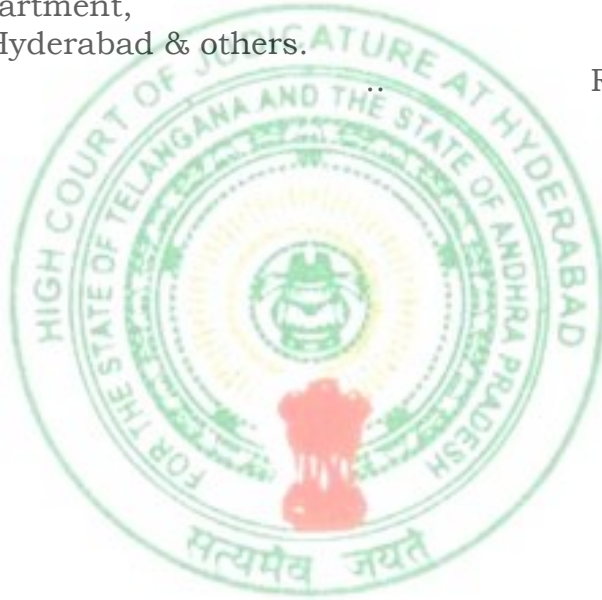
Petitioner

And

The State of Telangana,
rep., by its Principal Secretary,
Revenue Department,
Secretariat, Hyderabad & others.

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Respondents



This court made the following :

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ORDER :

Heard.

2. On 20.12.2008 the District Collector, passed orders mutating the name of the persons mentioned therein, in compliance with the decree granted by the Wakf Tribunal in O.S.No.39 of 2008 dated 26.08.2008. By virtue of the said order the name of A.P.Wakf (Dargah Shah Khamoosh) is recorded in the revenue records. It is not in dispute that the District Collector was a defendant in the suit and that the suit was decreed. While so, the District Collector, wrote a letter to the Chief Commissioner of Land Administration seeking permission to undertake review of his earlier decision. Alleging inaction by the Chief Commissioner of Land Administration on the letter written by the District Collector, on 31.12.2011, this writ petition is filed.

3. In order to appreciate the prayer sought in the writ petition, the learned counsel for the petitioner was asked to clarify as to under what provision of law, the District Collector has got power to undertake review of the decision made by him and can seek leave from the Chief Commissioner of Land Administration (CCLA) and not granting leave by CCLA as sought by the District Collector amounts to illegal exercise of power and authority and not acting in accordance with law on the proposal sent by the District Collector, in order to grant the relief as sought for by the petitioner.

4. Learned counsel for the petitioner has not placed before this Court any statutory provision which vests power in the Chief Commissioner of Land Administration to grant leave as sought by the District Collector. He is also unable to state as to whether any such power of review was available to the District Collector, more particularly, as noted above, decree was granted by the Wakf Tribunal and in the said decree the District Collector was the defendant. Thus, the District Collector is bound by the decree and in compliance thereof, having taken a decision on 20.12.2008, he became *functus officio*, and therefore, cannot undertake review, unless and until the decree is nullified. As fairly submitted by learned counsel for the petitioner, so far the decree operates.

5. However, learned counsel for the petitioner sought to contend that the petitioner was not a party to the decree and therefore, it is not binding. He further sought to contend that the decree was obtained by playing fraud, therefore it is vitiated. That is not the issue in this writ petition and therefore, this Court is not expressing any opinion on the said contention.

6. As noted above, prayer sought in the writ petition is only to direct the Chief Commissioner of Land Administration to accord permission to the District Collector to review the earlier decision made by him.

7. Thus, leaving it open to the petitioner to work out his remedies as available in law, if so advised, for the reasons stated above, the Writ Petition is dismissed in limini. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

6th October, 2017
Rds

P.NAVEEN RAO,J

