

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.44928 of 2016, 45000 of 2016

and 24370 of 2017

COMMON ORDER:

These three writ petitions relates to an extent of Ac.14.29 cents situated in S.Nos.504, 505 and 500 (and their subdivisions) in Guntur Village, Mandal and District of Andhra Pradesh.

2) W.P. No.44928 of 2016 is filed by Golden Tobacco Limited challenging the notification dated 28.06.1962 including the said property as a Wakf Property and prohibiting the registration of any document relating to the said property under Section 22-A (1) (c) of the Registration Act, 1908. The same petitioner filed W.P. No.24370 of 2017 challenging the action of A.P. State Wakf Board in issuing notice under Section 51 of Wakf Act, 1995 asking the petitioner to explain as to why further necessary action shall not be initiated against the petitioner for the illegal possession over part of the said property in an extent of Ac.11.57 cents. W.P. No.45000 of 2016 is filed challenging the notification of their private property situated in S.Nos.504/1, 504/2, 505/1 in the Gazette Notification dated 28.06.1962 and consequent prohibition of registration of document in respect of the said property under Section 22-A (1) (c) of the Registration Act, 1908. Thus, all the writ petitions relate to notification of their properties in the Gazette notification declaring the said properties as wakf properties and

prohibiting registration of documents in respect of the said property.

3) The submission of the petitioners is that it is an Inam land originally and was converted as a ryotwari land and it cannot be declared as wakf property. But since the dispute is with regard to nature of property, it can be decided by the Wakf Tribunal constituted under Section 83 of Wakf Act, 1955 (for short 'the Act'). In view of the availability of alternative remedy, this Court is not inclined to entertain the present writ petitions as it involves the determination of dispute regarding title. The law is well settled in **Board of Wakf, West Bengal vs Anis Fatma Begum and another**¹ that the said issue can be decided by the Wakf Tribunal constituted under Section 83 of the Act.

4) In view of the same, the writ petitions are disposed of, giving liberty to petitioners to avail the said remedy within a period of 60 days from the date of receipt of copy of this order. Till such time, the respondents shall not dispossess the petitioners and if for any reason, the petitioners do not avail such remedy, it is open for the respondents to take appropriate proceedings in accordance with law. Needless to say, the petitioners shall not create any third party interest from today with regard to the land covered by above writ petitions.

¹ 2011 (1) ALD 61 SC

5) The miscellaneous petitions pending in these Writ Petitions, if any, shall stand closed. There shall be no order as to costs.

A.RAMALINGESWARA RAO, J

Dt.11.08.2017
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