

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.36985 of 2016

ORDER:

Heard the learned counsel for the petitioner and Sri Shaik Mohammad, learned Standing Counsel for the Wakf Board.

2. The Executive Officer, A.P. State Wakf Board, Vijayawada vide Proceedings F.No.9774/Rent/NLR/2010/Z.V, dated 12.09.2016, leased out an extent of Ac.12 ½ Ankanam (100 sq yards) in Sy.No.461 situated at Wahabpet, Nellore, for a period of 33 months in favour of the petitioner with effect from 01.07.2016 subject to payment of a sum of Rs.8,500/- per month.

3. By way of order under challenge, the Chief Executive Officer of the State Wakf Board cancelled the said lease earlier granted in favour of the petitioner herein.

4. According to the learned counsel for the petitioner, the said action of cancellation of lease is highly illegal, arbitrary, unreasonable and violative of Articles 14 of the Constitution of India and violative of principles of natural justice. It is further submitted by the learned counsel for the petitioner that without issuing any notice in advance and with assigning any reason the Chief Executive Officer passed the order under challenge.

5. A counter affidavit deposed by the Chief Executive Officer of the State Wakf Board is filed, stating that after issuance of the proceedings in favour of the petitioner, the Board found another application dated 21.07.2016 submitted by one Sri S.K.Rabbani, offering a sum of Rs.2,00,000/- as non-refundable deposit and another amount of Rs.60,000/- towards court expenses which was incurred by the Board for vacating the encroachers found on the wakf property. According to the counter a representation was

made by Sri Sk.Rabbani on 21.06.2017 and the impugned proceedings were issued cancelling the lease granted in favour of the petitioner earlier. It is further stated that as per Rules 4 to 6 of the Wakf Rules, 2014 Board is bound to grant a lease in favour of the highest bidder and in view of the same the Board cancelled the lease granted in favour of the petitioner. It is further submitted that the impugned action is in the direction of rectifying mistake committed earlier, as such, the same is not amenable for any judicial review under Article 226 of the Constitution of India.

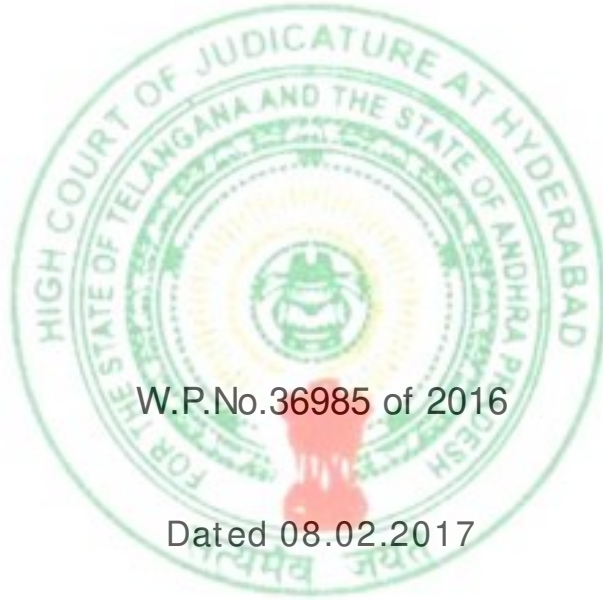
6. It is the categoric case of the petitioner herein that without issuing any notice and without affording any opportunity, the Chief Executive Officer passed the impugned order and the same is a patent violation of the principles of natural justice. It is a settled principle of law that any action which has civil consequences must necessarily be preceded by a notice and opportunity of being heard to the persons likely to be effected by such action. In the instant case, the said principle is followed in breach. Therefore, on this ground alone the impugned order is liable to be set aside.

8. For the aforesaid reason, writ petition is allowed, setting aside the order passed by the Executive Officer, A.P. State Wakf Board, Vijayawada vide Proceedings F.No.9774/Rent/NLR/2010/Z.V, dated 12.09.2016. However, this order will not preclude the respondents from proceeding in accordance with law, after giving notice and opportunity of hearing to the petitioner herein. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

A.V.SESHA SAI, J

Date:08.02.2017
grk

THE HON'BLE SRI JUSTICE A.V.SESHA SAI



W.P.No.36985 of 2016

Dated 08.02.2017

grk