

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.22868 of 2017

ORDER :

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:

“..to issue any appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the 2nd respondent in threatening to dispossess and petitioners from the lawfully obtained tenaments (shops) and demolish the said shops, which are 18 in number, inside Dargah Yousufain forming part of Municipal Nos.5-6-424 and 5-6-439, situated at Nampally, Hyderabad as illegal, arbitrary, violative of Articles 14, 15, 16, 21 and 300A of the Constitution of India and consequently, direct the 2nd respondent not to dispossess the petitioners from their respective shops or demolish their shops which are 18 in number without following due process of law and pass such order or other orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

Heard learned counsel for the petitioners, learned Government Pleader for Social Welfare appearing for respondent No.1, Sri M.A.Mujeeb, learned Standing Counsel for respondent No.2 before ordering notice to respondent No.3, so called Muthawalli of the Wakf Board in question and perused the prayer in the writ petition with supporting affidavit and other material on record.

The averments in the affidavit filed in support of the petition are that the 2nd respondent-Chief Executive Officer of the Wakf Board visited the Dargah on 01.07.2017 and after offering prayers, gave a press statement that the tenants in occupation in the premises of the Dargah would be forcibly removed by using the

services of local police and also threatened by giving live press conference that the tenants would be thrown on the road by evicting from the shops and nobody can stop. It is the apprehension in saying that the respondents are trying to take law into their hands, without following due process of law, which made petitioners to approach this Court for protection.

It is the submission of learned Standing Counsel for respondent No.2 that there is no dispute on the factum of the respondent No.2- Chief Executive Officer of the Wakf Board visited the Dargah and offered prayers on 01.07.2017, but for, the other statements are false and he did not give any press statement and in fact, the Wakf Board is contemplated to remove those shops, which are laid on the graves and to shift the same to the nearby, as those shops shall not stand on the graves.

Having regard to the above and from the scope of the *lis* is very limited, the Writ Petition is disposed of, any such recourse is after hearing the affected petitioners always left open to the Wakf Board, but, they shall not be evicted or thrown out except through due process of law and further remedies of the petitioners are left open to approach the Wakf Tribunal.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed. No costs.

Dr. B. SIVA SANKARA RAO, J

Date:17-07-2017
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