

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.37486 OF 2017

O R D E R :

This petition is filed for a writ of *Mandamus* declaring the action on the part of the respondent Nos.2 and 3 in attempting to dispossess the petitioner from the Wakf property admeasuring Ac.3.59 cents in Sy.No.136, situated at Kothapeta area of Kurnool Town, belonging to a Wakf institution by name Sultania Mosque, as illegal and arbitrary and for a consequential direction to the respondents 2 and 3 to follow due process of law as contemplated under Wakf Act and Wakf Properties Lease Rules, 2014, in order to evict the petitioner from the aforesaid Wakf property.

Learned counsel for the petitioner states that without following procedure the respondents are trying to evict the petitioner.

On the other hand Sri P.Veera Reddy, learned senior counsel submits that already petitioner challenged the notice dated 16.02.2013 before the Andhra Pradesh State Wakf Tribunal, Hyderabad, in OS.No.22 of 2013 and the same was dismissed. Without challenging the said Judgment, present writ petition is filed. He also submits that admittedly petitioner's lease expired and petitioner is also not paying lease amounts.

In the notice dated 16.02.2013 issued by the 2nd respondent it is stated that petitioner filed WP.No.25629 of 2012 seeking direction to the respondents to consider her application dated 18.05.2012 for extension of lease and the same was disposed of with a direction to consider the representation of the petitioner. Subsequently, the Board has taken a decision vide Resolution No.500/2012, dated 27.09.2012 not to grant further lease and also directed its office to take recourse of law for eviction of the petitioner. Accordingly the petitioner was issued notice dated 10.10.2012 with a direction to vacate the subject premises within 30 days. But, the petitioner without complying the same again submitted application dated 03.11.2012 to the Board for extension of lease for a further period of three years which was placed before the Board in its meeting wherein the Board vide Resolution No.17/2013, dated 11.02.2013 rejected the petitioner's application and also directed the inspector Auditor Wakfs to collect the arrears if any due and to initiate process of law for evicting the petitioner. As per the said resolution the petitioner is directed to vacate the subject land within thirty (30) days by paying the arrears of lease, failing which proper action would be initiated against the petitioner for recovery of the same.

It is to be seen that if the petitioner has any grievance, he could have challenged the Judgment in OS.No.22 of 2013,

but the same is not challenged. Learned counsel for the petitioner also brought to my notice Rule 24(2) of the Rules framed by the Government by exercising powers under Section 56(1) of the Wakf Act, 1995, which also indicates that if, after the expiration or termination of the lease, the lessee continues to occupy the leased premises, it shall be treated as an encroachment and such encroachment shall be removed in accordance with the procedure specified in Section 54 of the Wakf Act. Since in the notice dated 16.02.2013, it is indicated that proper action will be initiated against the petitioner, I do not see any merit in the writ petition.

Accordingly, the writ petition is dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

08.11.2017
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A.RAJASHEKER REDDY, J