

HON'BLE SRI JUSTICE M. SEETHARAMA MURTI

WRIT PETITION No.40317 of 2017

ORDER:

This writ petition is filed seeking the following relief:

"..to issue an appropriate writ, order or direction more particularly one in the nature of WRIT OF MANDAMUS declaring the action of the respondents 3 to 5 in not protecting the Muslim Grave Yard/Burial Ground of an extent of Ac.1.5 cents namely "Gulzan Chowk Mosque-Masjid-e-noor (Choti Masjid) and Grave Yard registered and notified Wakf situated at Nizampet Gudiwada town and proposed to construct a commercial complex by the 3rd respondent under the guise of construction of a compound wall to east side at Gulzar Masjid vide tender cum notification and the estimate of the 3rd respondent Municipality as arbitrary, illegal, unjust and violative of Article 14, 19, 21 and 300A of the constitution of India and consequently direct the respondents 3 to 5 not to interfere and construct the commercial complex in the grave yard in the interest of justice and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

2. Learned counsel for the petitioners would submit that there is a proposal to make some constructions/shopping complex in the burial ground/muslim grave yard and therefore, the writ petition is filed to direct respondents 3 to 5 not to proceed with such constructions in the said yard/ground.

3. Learned Standing Counsel for the Municipality appearing for the third respondent would submit that the subject property is a wakf property.

4. Sri Arifullah, learned Standing Counsel appearing for the fourth respondent – Wakf Board, would submit that no constructions are made or are being made within the muslim grave yard/burial ground and that there used to be some old shops abutting the compound wall of the grave yard/burial ground on the road side and those shops were demolished and in that place, new constructions are being made but not within the grave yard premises and therefore, the writ petition, which is politically motivated, is not maintainable and is liable to be dismissed.

5. Learned counsel for the petitioners would submit that if the statement of the learned Standing Counsel for the fourth respondent –

Wakf Board that no constructions are being made within the compound of the subject grave yard/burial ground is recorded, the ends of justice would be met.

6. Recording the said submission of the learned Standing Counsel for the Wakf Board, the writ petition is disposed of.

Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

M. SEETHARAMA MURTI, J

Date: 08.12.2017
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