

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2119 of 2017

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1. Md. Eqbaluzzafar, Son of Late Hakeen Mohammad Wasiuddin, Resident of Mohalla - Katra, P.O. /P.S. Bihar Sharif, District - Nalanda

.... Petitioner/s

Versus

1. The State of Bihar through Principal Secretary Minority Welfare Department, Bihar, Patna
2. The Bihar State Sunni Wakf Board, 34 - Ali Imam Path Haj Bhawan, Patna through it's Chief Executive Officer
3. The Chairman Bihar State Sunni Wakf Board, 34 Ali Imam Path Haj Bhawan, Patna
4. Chief Executive Officer, Bihar State Sunni Wakf Board, 34 Ali Imam Path, Haj Bhawan, Patna
5. The Bihar Wakf Tribunal, Patna through it's Presiding Officer, 34 Ali Imam Path, Patna
6. The District Magistrate Nalanda - Cum - President Soghra Wakf Estate, Bihar Sharif, Nalanda
7. The Sub - Divisional Officer, Sadar, Bihar Sharif, District - Nalanda
8. S.M. Sharaf, Motawalli, Soghra Wakf Estate Lehari Mohall Bihar Sharif, District - Nalanda
9. Manoj Kumar, Son of Gopal Ram, Resident of Mohalla - Doctor's Colony, P.O. / P.S. Bihar Sharif, District - Nalanda

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Brij Nandad Prasad

For the Respondent/s : Mr. Helal Ahmad

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 02-05-2018 In the instant writ petition filed under Article 226 of the Constitution of India, the petitioners have prayed for quashing the order dated 08.03.2016 passed by the Bihar Waqf Tribunal, Patna in Misc. Case No. 01 of 2016 whereby the Tribunal has vacated the order of status quo dated 17.03.2015 on the application of the respondent no.9.

Learned counsel for the petitioner submitted that the



impugned order passed by the Tribunal is illegal and unsustainable in the eye of law.

Mr. Helal Ahmad, learned counsel appearing for the Bihar State Sunni Waqf Board raised a preliminary objection with regard to maintainability of the writ petition under Article 226 of the Constitution of India before this Court against the order of the Tribunal. In this regard, he has placed reliance on a decision of this Court in ***Md. Wasiur Rahman & Anr. Vs. The State of Bihar & Ors. (CWJC No. 14622 of 2017)*** disposed of on 25.04.2018.

In the case of ***Md. Wasiur Rahman*** (Supra), this Court, vide its judgment dated 25.04.2018, taking into consideration various provisions of the Waqf Act, 1995 in detail as also the ratio laid down by the Supreme Court in ***Sadhana Lodh Vs. National Insurance Co. Ltd. [(2003) 3 SCC 524]***, and the decisions of the High Court of Shimla in ***Mumtaz Ahmed and ors. Vs. State of H.P. and ors. 2017(1) ShimLC 338***], the High Court of Gujarat in ***Zubedaben Mohammedmiya and Ors. Vs. Gujarat State Waqf Board and ors.*** decided on 16.12.2015 in Special Civil Application No. 18852 of 2014, the High Court of Andhra Pradesh in ***Md. Abdul Kareem and Anr. Vs. Andhra Pradesh State Waqf Board and Ors. [2004(3) ALT 254]*** and the High Court of Karnataka vide judgment dated 26.08.2017 in ***Syed***



Asadulla Hussaini Vs. The Karnataka State Board of Wakfs Darul Awkaf, came to the conclusion that in terms of proviso to sub-section (9) of Section 83 of the Waqf Act, 1995 any person aggrieved by the orders of the Tribunal can invoke revisional jurisdiction of the High Court and a writ petition under Article 226 or a petition under Article 227 of the Constitution of India would not be maintainable.

For the reasons assigned in ***Md. Wasiur Rahman & Anr.*** (Supra), this Court is of the considered opinion that this petition preferred under Article 226 of the Constitution of India against the order of the Tribunal dated 08.03.2016 is not maintainable. It is accordingly dismissed. However, the petitioner would be at liberty to invoke the proviso to sub-section (9) of Section 83 of the Waqf Act, 1995 for redressal of his grievance.

(Ashwani Kumar Singh, J)

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