

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.6819 of 2017

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1. Om Prakash Shahi Son of Sri Keshav Prasad Sahi,
 2. Savitri Shahi Wife of Ram Kumar Shahi Both Resident of Mauza-Seikhpura, Akaraghat, P.S.- Ahiyapur, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar through the Secretary, Bihar State Sunni Wakf Board, Haj Bhawan, 34 Ali Imam Path (Harding Road), Patna- 800001.
2. The Chairman, Bihar State Sunni Wakf Board, Haj Bhawan, 34 Ali Imam Path (Harding Road), Patna- 800001.
3. Mutwalli Cum Secretary namely, Sabir Raza Haider (Earstwhile), at Present Prof. Manzar Hussain Wakf No. 1170, Chhata Bazar, Masjid Wakf Estate Mauza Sheikhpur Akhara Ghat, P.S. Ahiyapur, District- Muzaffarpur.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Uday Bhan Singh

For the Respondent/s : Mr. Md. 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 10.04.2017 passed by the Bihar Waqf Tribunal, Patna in T.S. No. 03 of 2017 whereby the Tribunal has dismissed the suit filed by the petitioners.

Learned counsel for the petitioners 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 10.04.2017 is not maintainable. It is accordingly dismissed. However, the petitioners would be at liberty to invoke the proviso to sub-section (9) of Section 83 of the Waqf Act, 1995 for redressal of their grievance.

(Ashwani Kumar Singh, J)

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