

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13313 of 2011

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1. Mirza Mohammad Zafar S/O Late Mirza Abdul Rahman R/O M/H-Dr.
Moshuk Ali Road, Gurhatta, P.S. Khajekalan, Patna City, Distt.-Patna.
..... Petitioner/s

Versus

1. The Bihar State Sunni Wakf Board through the Chairman, Haj Bhawan
34, Ali Imam Path, Patna-800001.
2. Md. Sarwar S/O Late Abdul Rahman R/O M/H-Dr. Moshuk Ali Road,
Gurhatta, P.S. Khajekalan, Patnacity, Distt.-Patna.
..... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Kishore Verma
For the Respondent/s : Mr. Rashid Izhar
For the Waqf Board : Mr. Helal Ahmad

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

4 02-05-2018 In the instant writ petition filed under Article 226 of the

Constitution of India, the petitioner has prayed for quashing the

order dated 10.05.2011 passed by the Bihar Waqf Tribunal, Patna

in Title Suit No. 44 of 2010 whereby the Tribunal has dismissed

the suit filed by the petitioner.

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 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.

In view of the aforesaid judgment of this Court in **Md. Wasiur Rahman & Anr.** (Supra), learned counsel for the petitioner seeks leave to withdraw the present writ petition in



order to challenge the order dated 10.05.2011 passed by the Tribunal in Title Suit No. 44 of 2010 by invoking the proviso to sub-section (9) of Section 83 of the Waqf Act, 1995.

Leave is granted. The application is disposed of.

(Ashwani Kumar Singh, J)

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