

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16086 of 2014

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1. Shaukat Ali son of Late Sharfuddin, President of New Managing Committee, Waqf Estate No. 2101 Nai Masjid Lal Bagh, P.S. & P.O.- Sigori, District- Patna
 2. Mahmood Alam, Son of Late Md. Tameez, Secretary of New Managing Committee, Waqf Estate No. 2101 Nai Masjid Lal Bagh, P.S. & P.O.- Sigori, District- Patna
 3. Akhruzzaman Son of Late Abdul Wadoos, Treasurar of New Managing Committee, Waqf Estate No. 2101 Nai Masjid Lal Bagh, P.S. & P.O.- Sigori, District- Patna
 4. Waris Imam son of Late Shamshuddin, Member of New Managing Committee, Waqf Estate No. 2101 Nai Masjid Lal Bagh, P.S. & P.O.- Sigori, District- Patna
 5. Shah Umair Son of Late Saifullah, Member of New Managing Committee, Waqf Estate No. 2101 Nai Masjid Lal Bagh, P.S. & P.O.- Sigori, District- Patna
 6. Jasimuddin Son of Late Naimuddin, Member of New Managing Committee, Waqf Estate No. 2101 Nai Masjid Lal Bagh, P.S. & P.O.- Sigori, District- Patna
 7. Amiruddin Son of Late Shafat Ali Member of New Managing Committee, Waqf Estate No. 2101 Nai Masjid Lal Bagh, P.S. & P.O.- Sigori, District- Patna
 8. Abdur Rashid Son of late Moniruddin, Member of New Managing Committee, Waqf Estate No. 2101 Nai Masjid Lal Bagh, P.S. & P.O.- Sigori, District- Patna
 9. Jasimuddin @ Guddu Son of Late Shafat Ali Member of New Managing Committee, Waqf Estate No. 2101 Nai Masjid Lal Bagh, P.S. & P.O.- Sigori, District- Patna
 10. Md. Hussain Son of Late Abbas, Member of New Managing Committee, Waqf Estate No. 2101 Nai Masjid Lal Bagh, P.S. & P.O.- Sigori, District- Patna
 11. Ismail Son of Late Israil, Member of New Managing Committee, Waqf Estate No. 2101 Nai Masjid Lal Bagh, P.S. & P.O.- Sigori, District- Patna

.... Petitioner/s

Versus

1. Bihar State Sunni Waqf Board through its Chief Executive Officer, Second Floor, Haj Bhawan, Ali Imam Path, Patna- 800001
2. Chairman, Bihar State Sunni Waqf Board, Second Floor, Haj Bhawan, Ali Imam Path, Patna- 800001
3. Chief Executive Officer, Bihar State Sunni Waqf Board Second Floor, Haj Bhawan, Ali Imam Path, Patna- 800001
4. Hakim Md. Sanaullah son of Late Qazi Md. Sharfuddin, Resident of Sigori, P.S. & P.O.- Sigori, District- Patna

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abinash Kumar



For the Respondent/s : Mr. Rashid Izhar
Mr. Helal Ahmad

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

3 03-05-2018 In the instant writ petition filed under Article 226 of the Constitution of India, the petitioner has prayed for quashing the order dated 09.05.2014 passed by the Bihar Waqf Tribunal, Patna in Waqf Appeal No. 5 of 2013 whereby the Tribunal has dismissed the appeal filed by him.

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 passed by the Tribunal in view of statutory provisions prescribed under Section 83 of the Waqf Act, 1995 and the judgment of this Court dated 25.04.2018 passed in ***Md. Wasiur Rahman & Anr. Vs. The State of Bihar & Ors. (CWJC No. 14622 of 2017).***

The preliminary objection raised by the learned counsel for the Waqf Board is well founded. 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.

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 09.05.2014 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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