

THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE Mr. JUSTICE M. GANGA RAO

Writ Appeal No.38 of 2018

Judgment: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the interlocutory order passed by the learned Single Judge in WPMP No. 37463 of 2017 in W.P. No.30073 of 2017 dated 11.12.2017.

Against a similar order passed in WPMP No. 36860 of 2017 in W.P. No. 29621 of 2017 dated 11.12.2017, the appellant herein had filed W.A. No. 2016 of 2017 and, by order dated 2.1.2018, the order under appeal was set aside; the WPMP was restored to file, and the appellant was directed to file their counter-affidavit within two weeks after which it was left open to the learned counsel for the respondent-writ petitioners to request the learned Single Judge to take up the WPMP.

While both Sri S. Arifulla, learned counsel for the appellant, and Sri Vedula Srinivas, learned counsel for the 1st respondent-writ petitioner, would agree that the order passed in W.A. No. 2016 of 2017 dated 2.1.2018 would also apply to the case on hand, Sri Vedula Srinivas, learned counsel, would submit that the order, impugned in the Writ Petition, appears to have been passed by the Chief Executive Officer of the Wakf Board, and not by the competent authority. Sri S. Arifulla, learned counsel for the appellant, would, however, submit that the order of removal was passed by the competent authority; and that is reflected in the order impugned in the Writ Petition.

In terms of the order passed by the earlier Division Bench in W.A. No. 2016 of 2017 dated 2.1.2018, the order under appeal is required to be set aside, and the WPMP restored to file leaving it open to the 1st

respondent-writ petitioner to raise these contentions also before the learned Single Judge when the WPMP is taken up for hearing.

The Writ Appeal is disposed of, setting aside the order under appeal and restoring WPMP No.37463 of 2017 to file. The appellant shall file their counter-affidavit in the Writ Petition within two weeks from today. It is open to the 1st respondent-writ petitioner to request the learned Single Judge to take up the WPMP for hearing any day after two weeks.

The Writ Appeal stands disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(M. GANGA RAO, J)

18th January, 2018

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Date: 18.1.2018

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