

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION No.7868 of 2007

ORDER:

This writ of certiorari is filed questioning the order passed by the 1st respondent-Andhra Pradesh Wakf Tribunal in O.S.No.24 of 1998, dated 22.01.2007.

Heard Sri Y.Chandrasekhar, learned counsel for the petitioners and Sri Syed Naimullah Shakeel, learned counsel for the 2nd respondent.

It has been contended by the learned counsel for the petitioners that respondent No.1, without any authority, has passed eviction orders in the suit bearing O.S.No.24 of 1998, vide orders dated 22.01.2007. It has further been contended that eviction of the petitioners and cancellation of their sale deeds are not within the domain of respondent No.1 and a competent civil court alone can go on these aspects and without appreciating the said facts, respondent No.1 decreed the aforementioned suit in favour of respondent No.2, vide orders dated 22.01.2007. The same is challenged in the present writ petition.

Learned counsel for the respondents contends that the writ petition is not maintainable as per Section 83(9) of Andhra Pradesh Wakf Act, 1995 (for short "the Act"). He further contends that against the impugned order, a revision lies to the High Court, but not a writ petition. The learned counsel further contends that a revision ought to have been filed in place of a writ petition under Section 83(9) of the Act. The learned counsel further contends that the petitioners have filed an application before this court seeking conversion of the present writ petition into a revision under Section 83(9) of the Act.

Having considered the rival submissions made by both the parties, this court is of the view that an opportunity can be afforded to the petitioners to file a revision under Section 83(9) of the Act excluding the limitation, as they have pursued their remedies in a wrong Forum.

The Writ Petition is accordingly disposed of, however, without costs. The petitioners are at liberty to file a revision under Section 83(9) of the Andhra Pradesh Wakf Act, 1995 before this court within a period of 4 (four) weeks from today excluding limitation. Since during pendency of the writ petition there was interim suspension of the impugned order dated 22.01.2007, the same shall be continued for further period of 6 (six) weeks from today.

Pending miscellaneous applications, if any, shall stand closed in consequence.

ABHINAND KUMAR SHAVILI, J

Date: 21.03.2018
Dsr

Note:
Furnish copy in two days
B/o
Dsr

