

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.9656 OF 2018

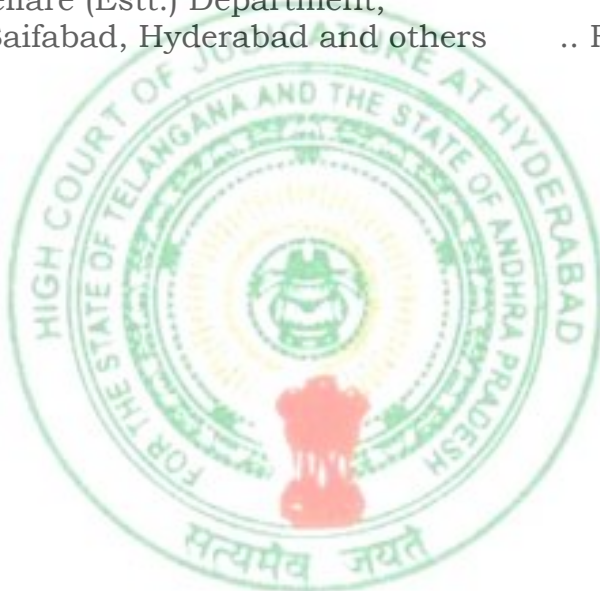
Dated:02.04.2018

Between:

Yaseen Begum Family Society, rep., by its
Joint Secretary, Mohammed Subhanuddin
Khaiser, Aged about 48 years, Occ: Business,
R/o.16-11-213/1, Moosaram Bagh, Besides
Ramachandra ITI, Hyderabad .. Petitioner

And

The State of Telangana, rep., by its
Special Secretary to Government,
Minorities Welfare (Estt.) Department,
Secretariat, Saifabad, Hyderabad and others .. Respondents



The Court made the following:

THE HON'BLE SRI JUSTICE P. NAVEEN RAO**WRIT PETITION No.9656 OF 2018****ORDER:**

Heard.

2. Petitioner – Society claims that late Smt. Yaseen Begum was the disciple of Hazrath Zinde Madhar Shah, whose Dargah is situated at Muttuguda, Tatiannaram Village, Abdullahpurmet Mandal, Ranga Reddy District, from time immemorial. According to petitioner, Smt. Yaseen Begum purchased the land surrounding the Dargah admeasuring Acs.43.00 in Survey Nos.121, 122, 124, 125 and 126 and she used to manage the day-to-day affairs of the Dargah and also used to perform yearly Urs. According to petitioner, there are more than 100 graves around the Dargah belonging to its disciples. After death of Smt. Yaseen Begum, her legal heirs used to look after the day-to-day affairs of the Dargah, surrounding graves and mosque and also used to conduct yearly Urs. The petitioner – Society is formed with the family members of late Yaseen Begum and others, who regularly visit the Dargah.

3. In this Writ Petition, petitioner seeks declaration that respondents 2 to 6 failed to exercise their official powers vested in them to protect the Wakf institution, namely, Dargah Zinde Madhar Shah and Takiya Yaseen Begum Graveyard, Masjied-E-Yaseen Begum with the land of Acs.43.00 situated at Muttuguda Tatiannaram Village, Abdullahpurmet Mandal, Ranga Reddy District, from being encroached and demolished by respondents 14 to 16 and other individuals.

4. According to learned counsel for the petitioner, the subject property has become wakf property by virtue of 'wakf by user' and recent report submitted by the Inspector Auditor, Wakfs, Ranga Reddy District, dated 29.01.2018, addressed to the Chief Executive Officer, Telangana State, Wakf Board, substantiates that the property has become wakf property by means of 'wakf by user' and therefore no other person can enter into the land or use the land for any other purpose. Learned counsel further submits that the Wakf Board erred in not taking appropriate steps to protect the wakf property and because of their negligence the unofficial respondents have demolished the wakf institution and caused damage to the graves.

5. Learned senior counsel appearing for the unofficial respondents 14 to 16 would submit that Occupancy Rights Certificates (ORCs) were granted to them on 14.02.1979, 31.05.1979 and 26.05.1979. The appellate authority entertained appeal filed against ORCs granted to them after long lapse of time and passed orders on 26.04.2003 remitting the matter to the Revenue Divisional Officer for fresh consideration. Aggrieved thereby, respondents 14 to 16 and others filed W.P.No.24132 of 2003. The said Writ Petition was allowed by judgment dated 19.02.2015. The decision of the learned single Judge was affirmed by Division Bench in W.A.No.787 of 2015 and S.L.P. preferred against Writ Appeal judgment was also dismissed. Thus, the ORCs granted to unofficial respondents stand in their favour and therefore it is their private land and it is not wakf land.

6. The respective contentions, as briefly noted above, would show that the petitioner claiming the subject land as wakf property by virtue of 'wakf by user'; denied by the unofficial respondents and they are armed with the judgment of this Court in W.P.No.24132 of 2003. *Per se*, as briefly noted above, there are serious disputes on the status of the land and ordinarily the Court does not venture to resolve disputed questions in Writ Petition filed under Article 226 of the Constitution of India. If petitioner disputes the claim of unofficial respondents and contends that the subject property is wakf property, by applying principle of 'wakf by user', petitioner has an effective remedy available under Section 83 of the Andhra Pradesh Wakfs Act, 1995. The Wakf Tribunal can go into all disputed questions of fact and record its findings.

7. The Writ Petition is accordingly dismissed leaving it open to petitioner to work out the remedies as available to it under the Andhra Pradesh Wakfs Act, 1995, if so advised, claiming that the subject land is a wakf land by applying the principle of wakf by user. There shall be no order as to costs.

Miscellaneous Petitions, if any, filed in this Writ Petition shall stand closed.

P. NAVEEN RAO, J

Date:02.04.2018

Note:- Issue C.C. in one week.

(B/o)
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