

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION NO.9829 OF 2017

ORDER:

It is stated that there is a Durgah Hazrath Gulam Shah Khadri situated at Porter's Lane, Misiknabad, Guntakal, Anantahapuram district which was dedicated by the father of the petitioner. After the death of the father of the petitioner, the petitioner, his brothers and other legal heirs, agreed for the dedication, subject to the condition that the eldest among the family will be the Muthawali-cum-Founder Chairman of Hazrath Syed Gulam Shah Khadri Charitable Trust.

2. It is the case of the petitioner that the land in Survey No.123E1 and 125B1 wherein the Durgah is located, belongs to them. He submitted a proposal under the provisions of Wakf Act for registration of the Durgah in an extent of Ac.0.07 cents and its attached land in an extent of Ac.0.50 cents situated in Porter's lane, Guntakal town and mandal, Anantapuram district. After receipt of the said proposal, a Notification was published on 16.12.2016 in Andhra Prabha Telugu Daily Newspaper, inviting objections. Though no objections were received, when no action was taken, the present Writ Petition was filed.

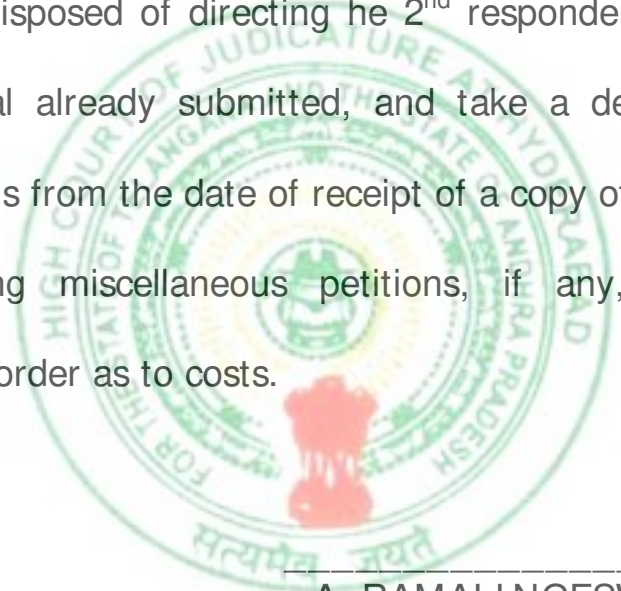
3. Now, a counter affidavit is filed on behalf of the respondents 2 and 3 stating that after receipt of a proposal, a

report was called from the 3rd respondent and he submitted a report on 1.11.2016 for consideration of the Board to register the said property under Towliath of the petitioner. Accordingly, a paper Notification was issued on 16.12.2016 inviting objections for registering the property Under Section 36 of the Act. An objection was received from one Janab Alhaj Syed Vali, President of Zamia Masjid Miskirabad, Porterline, along with relevant documents on 17.11.2017, stating that the petitioner executed a Gift Deed in respect of the land on 22.12.1959 and suppressing the same, the proposal was sent. The Managing Committee of the Mosque along with local Muslims have requested the Wakf Board to take the institution under the control of Wakf Board and to constitute a Managing Committee with the approval of majority of the local people. It is also stated that the Hundi collection for one year was Rs.78,000/- and the petitioner misappropriated the hundi collection for nearly nine years. Hence, the matter is pending consideration and a final decision is yet to be taken. The Durgah is yet to be registered Under Section 36 and Notification was issued and it is a Wakf property with a permanent dedication for the purposes recognized by the Muslim law as pious, religious or charitable and thereby attracting Section-2 of the Act for its management by the Wakf Board.

4. In view of the statements made by the Respondents 2 and 3 in their counter affidavit, now the issue is pending consideration before the 2nd respondent. It is stated that an objection was received on 17.11.2017 with relevant documents and considering the same, a decision will be taken.

5. In the light of the averments made in the affidavit filed in support of the Writ Petition and the counter affidavit, without expressing any opinion on the merits of the case, this Writ Petition is disposed of directing the 2nd respondent to consider the proposal already submitted, and take a decision, within three months from the date of receipt of a copy of this order.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.



A. RAMALINGESWARA RAO,J

Date: 12.3.2018

KPM