

THE HON'BLE SRI JUSTICE T. SUNIL CHOWDARY

WRIT PETITION No.40044 of 2016

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India seeking a Writ of Mandamus declaring the action of respondent Nos.1 and 2 in trying to interfere with the petitioner's peaceful possession and enjoyment of the land to an extent of Ac.1.20 cents in Survey No.1598/9 of Anandapuram Village, Kandukur Mandal, Prakasam District, by initiating the action under Section 51 of the Wakf Act, 1995, as illegal and arbitrary.

2. Heard the learned counsel for both parties.

3. It is the case of the petitioner that he has been in possession and enjoyment of an extent of Ac.1.20 cents of land in Survey No.1598/9 of Anandapuram Village, Kandukur Mandal, Prakasam District, since 37 years. While so, on 01.08.2016 the first respondent issued a notice under Section 51 of the Wakf Act directing the petitioner herein to submit his explanation within 15 days from the date of receipt of the notice. On 18.08.2016 the petitioner submitted his explanation to the first respondent. On 26.09.2016 the first respondent issued another notice directing the petitioner to appear before him on 18.10.2016 along with necessary documents to substantiate his stand. For one reason or other, the petitioner did not appear before the first respondent.

4. At the time of arguments, the only relief sought by the learned counsel for the petitioner is to direct the first respondent to

consider explanation of the petitioner dated 18.08.2016 and pass appropriate orders in accordance with law.

5. In view of the submission made by the learned counsel for the petitioner, this Court is not inclined to express any opinion touching the merits of the main case.

6. Having regard to the facts and circumstances of the case, the first respondent is hereby directed to consider the explanation of the petitioner dated 18.08.2016 submitted in pursuance of the notice of the first respondent dated 01.08.2016 and pass appropriate orders in accordance with law, as expeditiously as possible, preferably within a period of two (2) months from the date of receipt of a copy of this order. The respondents are hereby directed not to dispossess the petitioner till passing of the orders by the first respondent.

7. With the above direction, the Writ Petition is disposed of. There shall be no order as to costs. Consequently, Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

T. SUNIL CHOWDARY, J

Date: 23.04.2018
Ivd