

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION NOS.18163, 20385 AND 20423 OF 2018

COMMON ORDER:

Heard Mr. Y.Koteswar Rao for petitioner and the learned Standing Counsel, Mr. S.Arifullah for third respondent.

The petitioners in these three Writ Petitions are in possession of shop Nos.33, 34 and 41 respectively. The petitioners, apprehending forcible dispossession, have filed the instant Writ Petitions for the following reliefs. For illustration, the prayer in W.P.No.18163 of 2018 alone is adverted to.

“...writ of mandamus declaring the action of the respondent Nos.2 and 3 trying to evict the petitioner from shop No.33, of Gulzar Chowk Masjid premises, Opp: I-town Police Station, Gudiwada, Krishna District, A.P. as illegal, arbitrary & violative of principles of natural justice, consequently direct respondent Nos.2 and 3 not to interfere with the business activity of the petitioner.”

The third respondent filed counter affidavit and explained various lapses or alleged breaches on the part of petitioners. Admittedly, the third respondent issued show cause notice under Section 54(1) of Waqf Act, 1995. Keeping in view the action already initiated under the Waqf Act, the third respondent on the apprehension stated by the petitioners replies as follows.

“In reply to paras 5, 6, 7 and 8, I submit that the petition averments are vague and devoid of merits. The petitioner has wrongly invoked the writ jurisdiction when there is an efficacious remedy available under Section 83(2) of Waqf Act. So, the procedure as laid down under Section 54 of the Act for evicting the encroachers is being followed by the Waqf Board before approaching the Waqf Tribunal. So, the petitioner if at all is aggrieved has to approach the appropriate forum, but he cannot invoke the writ

jurisdiction. That to in vacation court, moreover the time stipulated in the show cause notice is lapsed as the petitioner did not submit his explanation within the stipulated time. Hence, the writ petition is liable to be dismissed on this ground alone.”

From the above, it is clear the third respondent is proceeding under the Act not only for evicting the petitioners but also for recovery of arrears etc., from the petitioners. The submission of third respondent is placed on record and the Writ Petition is disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

27th June 2018
RRB



(S.V.BHATT, J)