

THE HON'BLE SRI JUSTICE M.GANGA RAO

WRIT PETITION No.25825 OF 2005

ORDER:

This writ petition is filed to issue a Writ of Mandamus declaring the orders of the first respondent vide Memo No.6300/Wakf-1/A.2/2005-1, dated 17.10.2005 as illegal, void and without jurisdiction and consequently to set aside the same.

2. The second respondent filed Writ Petition No.11522 of 2004 challenging the proceedings of the Andhra Pradesh State Wakf Board issued in F.No.B3/33/CTR/2002, dated 07.11.2003, registering the Dargah Hazaraat Jumle Peer Shah and Dada Peer and Burial ground situated in Survey No.224/8 of an extent of Ac.0.91 cents and Mosque Azam situated in Survey No.224/7 in an extent of Ac.0.22 cents of Dargah Mitta, Panagal Village, Srikalahasti, Chittoor District, as wakf property under Section 36 of the Wakf Act, 1995 (for short 'the Act') and consequential proceedings of the Chief Executive Officer, A.P. State Wakf Board, Hyderabad vide Proceedings No.2/CTR/k/2004, dated 04.03.2004, appointing the respondents 4 to 14 therein as Managing Committee of Dargah Hazaraat Jumie Peer Shah and Dada Peer, as violative of principles of natural justice, arbitrary, illegal and contrary to the provisions of Section 36 of the Act, stating that about 400 years back, his great great grandfather

by name Hazarat Khaja Syed Shah Jumle Peer Shah @ Symed Jumle Pir Vali Allah, attained salvation on the western banks of Swarnamukhi river at Srialahasti. In memory of their grandfather, they established a Dargah called 'Hazarat Khaja Syed Shah Jumle Peer Shah Chistiul Khader Vali Allah and Dada Peer'. As per their custom and understanding, the eldest son shall be Sajjadanashin of the said Dargah. His father's father namely late Dargah Syed Jumle Shah being the eldest son of his father was the Sajjadanashin and in that capacity, he used to manage the affairs of the said Dargah and he expired in the year 1947. The Chief Executive Officer, Andhra Pradesh State Wakf Board in registering the Dargah as wakf property under Section 36 of the Act by proceedings dated 07.11.2003 basing on the judgment passed in Second Appeal No.588 of 1993, dated 09.04.2002, confirming the decree and judgment passed in O.S.No.342 of 1982, dated 25.03.1989 on the file of the District Munsif Court, Srialahasti and the property situated in Survey No.224/8 of an extent of Ac.0.91 cents and the land to an extent of Ac.0.22 cents in Survey No.224/7 of Panagal Village, Srialahasti, stating that A.P. State Wakf Board is Mutavalli, is unknown to law and contrary to the provisions of Section 36 of the Act as no application is filed by him being in administration and management of the wakf as Mujawar as held by the trial Court in O.S.No.342 of 1982, dated 25.03.1989. When he has not moved any application and any

other person moves an application for registration being a Mujawar (Mutavalli) is entitled for notice and hearing under Section 36(7) of the Act.

3. The petitioners filed the present writ petition stating that the second respondent filed the Writ Petition No.11522 of 2004 and this Court by order, dated 08.07.2004, granted *status quo* while ordering notice before admission. However, the Institution was already handed over to the Committee on 08.06.2004 and hence the petitioner continued to discharge its duties. Thereafter, the petitioner filed counter-affidavit and brought to the notice of this Court that the Management was taken over and the Committee celebrated the “Urs” from 16.07.2004 to 18.07.2004 successfully to the satisfaction of the entire community. This Court continued the orders of *status quo* by order dated 10.09.2004 and the said writ petition is pending. Thus, the Institution continued to be in the management of the Managing Committee. While so, it appears that the second respondent approached the first respondent in order to grab the Institution under the behest of *status quo*. The second respondent through his political connections, succeeded in getting an order passed by the first respondent vide Memo No.6300/Wakf-I/A.2/2005-1, dated 17.10.2005, directing the Committee and Members not to interfere with his peaceful possession of the Institution and not to interfere with his right to perform the festivals of “Gandham” and “Urs”, and religious activities till the outcome

of the Writ Petition No.11522 of 2004. As the said order being illegal, without jurisdiction and in utter disregard of the principles of natural justice, the present writ petition is came to be filed.

4. In view of the allowing of the Writ Petition No.11522 of 2004 by order dated 29.03.2018, setting aside the proceedings of the Andhra Pradesh State Wakf Board issued in F.No.B3/33/CTR/2002, dated 07.11.2003 and consequential proceedings of the Chief Executive Officer, A.P. State Wakf Board, Hyderabad vide Proceedings No.2/CTR/k/2004, dated 04.03.2004, appointing the respondents 4 to 14 therein as Managing Committee of Dargah. The consequential impugned order passed by the first respondent in Memo No.6300/Wakf-1/A.2/2005-1, dated 17.10.2005, could not be said to be illegal and without jurisdiction.

5. Accordingly, the Writ Petition is dismissed. No order as to costs.

6. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand dismissed.

JUSTICE M.GANGA RAO

29-03-2018
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