

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 33578 of 2018

ORDER:

1) Heard learned counsel for the petitioner, learned Government Pleader for Revenue and Sri Shaik Mohammad, learned Standing Counsel for Waqf Board. With their consent, the writ petition is disposed of at the admission stage itself.

2) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of respondents in contemplating to demolish shops situated in the premises of petitioner Mosque situated at Ganjihalli village, Gonegandla mandal, Kurnool District, without issuing any notice or without following due process of law, as illegal and arbitrary.

3) The averments in the affidavit filed in support of the Writ Petition would show that about 25 years, while the petitioner – mosque was in dilapidated condition, the petitioner (mutawalli) by name M.Pedda Rangavali raised funds from the families of Muslim living in the village and with the aid of Waqf Board, renovated the mosque and made construction of six small shops with tin roof, within the premises of the mosque. It is submitted that the mosque let out shops to third parties on monthly rent, who are paying rents regularly. The tenants were also paying tax to the local Gram Panchayat. It is stated that with the amounts received through rents, the mosque is being managed. While things stood thus, at the instance of rivals in the village, steps were being taken to demolish the shops located within the premises of the mosque, which is

contrary to the principles of natural justice. Hence, the present Writ Petition.

4) Learned Standing Counsel for Waqf Board, who obtained instructions, states that the mosque is a notified Waqf, published in A.P.Gazette No.43-A, dated 24.10.1963. The instructions further show that the legal heir of notified Mutawalli - Madar Saheb, is looking after the entire affairs of the subject Waqf institution and paying the Waqf fund to the Waqf Board regularly. The said legal heir requested to remove the unauthorized shops around the institution, which were erected in the shape of sheds, by some villagers of Ganjahalli village as the way to the said institution has become very narrow, causing much inconvenience to the persons visiting the mosque. As such, the Inspector Auditor Waqfs, Kurnool District, along with the Station House Officer, Ganjahalli village, Gonegandla police station, inspected the above Mosque on 05.09.2018, when the villagers of Ganjahalli village and the above said legal heir gave a written statement seeking removal of the unauthorized shops. It is stated that since the legal heir of Mutawalli himself has consented for removal of the shops, question of giving any notice would not arise.

5) From the above, it is clear that the petitioner, who claims to be Mutawalli of the said Mosque, is said to have constructed these shops and then let out the same to third parties on monthly rent. Learned Standing Counsel pleads that service of notice on the Mosque would be sufficient since it was the Mosque which has given the said premises on rent. However, the instructions received do not anywhere indicate issuance of notice to shop owners for removal and the said legal heir has consented for removal of the shops.

6) Having regard to the factual situation, the Waqf Board or the authority competent to remove the alleged encroachments, shall serve notice forthwith on the petitioner and also on the persons who are in possession of the shops and then proceed with the removal of the same, in accordance with law. Till such time, *status-quo* as on today to be maintained.

7) Accordingly, the Writ Petition is disposed of.

8) Miscellaneous petitions, pending if any, shall stand closed in the light of this final order. No order as to costs.

18.09.2018
vhh



JUSTICE C. PRAVEEN KUMAR