

HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT

W. A.No.1470 OF 2018 AND W.P. No.36830 OF 2018

COMMON JUDGMENT: *(Per Hon'ble Sri Justice S.V.Bhatt)*

Heard Mr. P.Si Raghu Ram, learned senior counsel for appellants/writ petitioners and Mr. P.Veera Reddy, learned senior counsel holding for Mr.Arifullah appearing for A.P. State Wakf Board.

With the consent of learned counsel, the W.A. and the W.P. are disposed of by this common judgment.

W.A. No.1470 of 2018 is directed against the order dated 10.10.2018 in W.P. No.36830 of 2018. The learned Single Judge in the order under appeal after taking note of the statutory remedies available under Sections 65 and 83(2) of the Wakf Act (for short 'the Act'), granted liberty to appellants/petitioners to avail the statutory remedies and observed that the concerned authority deals with the grievance of appellants/petitioners in accordance with law.

Mr.Si Raghu Ram contends that the order under appeal is unsustainable, for the order dated 10.10.2018 treats that the remedies available under Sections 65 and 83(2) of the Act are alternative and effective remedies for an aggrieved person. He fairly states that the appellants/petitioners have filed representation before the 1st respondent, the 1st respondent is not moving in the matter and even for this reason, the remedy available under Section 65 of the Act is not efficacious or alternatively the remedy is

rendered ineffective by the inaction of 1st respondent. He further contends that under the scheme of the Act, Section 83(2) provides remedy before the Tribunal, in the case on hand, the issue has not gone that far and further for the grounds raised by the appellants/petitioners, the proceedings dated 29.09.2018 of 2nd respondent can be reviewed by this Court under Article 226 of the Constitution of India.

Per contra, Mr.Veera Reddy submits that the representation since is filed before the 1st respondent, the writ appeal is not maintainable. Secondly, the prayer in the writ petition would also be altered with the outcome of a decision on the representation filed by the appellants. He objects to continuation of two parallel proceedings by the appellants/petitioners and submits that the 2nd respondent-Wakf Board cooperates in expeditious disposal of the representation pending before the 1st respondent.

We have perused the record and noted the rival submissions of the counsel made on behalf of the parties. Prima facie, we are of the view that the appellants/petitioners since have filed representation before the 1st respondent, and we have no reason to doubt that the 1st respondent in exercise of its jurisdiction under Section 65 of the Act would objectively examine the grievance of the appellants/petitioners and pass orders as are warranted by the facts of the case and in accordance with law.

The objection of Mr.Sri Raghu Ram that the 1st respondent is not moving in the matter and therefore, the appellants/petitioners are compelled to continue to press for a decision either in the writ

petition or writ appeal is merely noted to observe that the 1st respondent is under obligation to give efficacy to remedies provided under the Act by acting within a reasonable time. Therefore, the W.A. and the W.P. are disposed of by this order:

The appellants/petitioners are given liberty to re-submit the representation along with a copy of this order within three weeks from the date of receipt of a copy of this order.

The 1st respondent considers and disposes of the representation in accordance with law as warranted by the facts of the case, within three months from today.

The parties are directed to maintain status quo till the order is made and communicated by 1st respondent. The W.A. and the W.P. are ordered as indicted above. No order as to costs.

Having regard to the order passed by this Court, and to avoid ambiguity, when the representation is considered by the 1st respondent, we clarify that this Court has not examined the merits of the matter and all issues are left open for consideration by the 1st respondent.

As a sequel thereto, miscellaneous petitions, if any, pending stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

Date: 08.11.2018

Stp