

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.44469 of 2018

ORDER:

This writ petition is filed challenging the proceedings in F.No.18/PKM/Wakf/2004, dated 12-03-2008 issued by the 4th respondent, wherein it is stated that there are about Ac.4208.87 cents of land in Prakasam District, are Inam lands, which are endowed to charitable institutions under the provisions of Wakf Act, 1957 and requested the District Registrar to issue suitable instructions to all the Sub-Registrars directing them not to entertain any sale or purchase transactions for registration of Wakf property in the name of individuals.

The case of the petitioner is that one late Shaik Gouse Moiuddin S/o.Late Sri Shaik Fariduddin was the absolute owner and possessor of an extent of Ac.10-40 cents situated in Sy.No.253 of Ongole town. One Sri Battina Venaiah S/o.Battina Rattaiah purchased an extent of Ac.3-90 ½ cents under registered sale deed bearing document No.573 of 1950 and obtained a layout from the Director of Town and Country Planning, Hyderabad in ULP.No.89 of 1981. The legal representatives of Shaik Gouse Moiuddin namely Moulana Baig S/o.Khadir Baig, Yusuf Baig S/o.Khader Baig, Yousuf Baig S/o.Mehboob Baig prepared a private layout in Ac.3-12 cents on the eastern side of the above referred lay out in ULP Yousuf Baig S/o.Mehboob Baig have sold plot No.19 admeasuring 3600 square feet in S.No.253 of Ongole Town in favour of one Late

Guntur Ramanujamma W/o.Guntur Krishna Rao under registered sale deed bearing document No.1113/1980, who in turn sold the same in favour of the 1st petitioner vide registered sale deed document bearing document No.934/85. The mother of 1st petitioner late Sowmitramma also purchased Plot No.20 under registered sale deed document bearing document No.935/1985, dated 28-03-1985 from the same vendor. Since the mother of the 1st petitioner died, the said property was devolved upon him by succession. The 2nd petitioner purchased plot No.34 admeasuring 4300 square feet having purchased the same under registered sale deed dated 06-11-1984 executed by one Bellamkonda Ram Murthy, Bellamkonda Venkat Rao, Subba Rao bearing document No.5028/1984. The 3rd petitioner got 25 gadies under registered settlement deed dated 16-07-2007 bearing No.6970 of 2007 executed by his mother and brothers. It is also stated that the Mandal Revenue Officer has issued a certificate stating that the land in S.No.253 is not a Wakf land. That Wakf Board has filed O.S.No.10 of 1997 on the file of Additional District Judge's Court, Ongole against several individuals for recovery of possession and in the said suit, learned Judge has held that S.No.253 is not a Wakf land. The Wakf Board has filed an appeal and the same is pending. That the District Revenue Officer/District Wakf Officer has issued proceedings in F.No.18/PKM/2004, dated 12-03-2008 claiming that an extent of Ac.4200-80 cents of Inam lands in Prakasam District which

are endowed to Charitable and Religious Wakf Institutions. All the Tahsildars are directed not to entertain Inam Abolition proposals in respect of the Wakf lands and any applications of Muttawallis/Muzawards or any unconcerned persons for issuing pattadar passbooks. The District Registrar is requested to issue suitable instructions to the Sub-Registrars directing them not to entertain any sale and purchase transactions for registration of Wakf properties in the name of individuals. In Proforma-III appended to the said circular an extent of Ac.1-47 cents in S.No.253 is also enclosed. The District Registrar and Sub-Registrar of Ongole refused to entertain any documents with reference to the land in S.No.253 claiming that by virtue of said circular the S.No.253 is kept in prohibitory category under Section 22-A of the Registration Act as per the circular issued by the 4th respondent and he cannot entertain any application for alienations of any sort. Aggrieved by the action of respondents in not entertaining any documents for registration or any other kind of alienation in respect of land situated in S.No.253 of Ongole town, the present writ petition is filed.

Learned Standing counsel for respondent-Wakf Board produced written instructions stating that the Ashoorkhana and its attached landed property in Sy.No.253 an extent of Ac.10-40 cents of Ongole Town and Sy.No.120 an extent of Ac.14-25 cents and Sy.No.145 an extent of Ac.3-46 cents situated at Pernamitta village, Santhanuthalapadu Mandal, Prakasam District is surveyed and notified as Wakf property and got

published in A.P.Gazette No.26, dated 28-06-1962 at Sl.No.944 read with an Addendum published vide A.P. Gazette No.11, dated 17-03-2016. It is also stated that one Sri Late Shaik Ghouse Moinuddin S/o.Late Shaik Fareeuddin was not a owner of the said property and legal representatives namely Shaik Ghouse Moinuddin, Moula Baig S/o.Khader Baig and Yousuf Baig are laid down a private layout in Sy.No.253 an extent of Ac.3-12 cents in Ongole Town illegally without having any right and authorization. The subject land was granted as Inam for the maintenance of Peerla Panja for celebration of Moharam as religious purpose. It is also stated that as per the orders of Supreme Court in SLP.Civil No.4372/85 once a Wakf always Wakf and nobody has right to change the object of Wakf. The Wakf Board has filed O.S.No.10 of 1997 on the file of Additional District Judge's Court, Ongole for recovery of possession and the same was dismissed on 24-11-2000 and aggrieved by the same, the Wakf Board has filed appeal before this Court vide A.S.No.1919 of 2001 and the same is pending.

It is also stated in the written instructions that as per Full Bench orders dated 23-12-2015 of this Court in W.A.No.343 of 2015 and Batch, the CEO, APSWB has communicated the list of Wakf properties under Section 22-A of the Act pertaining to Prakasam District to the Commissioner and Inspector General of Registration and Stamps, Andhra Pradesh vide F.No.01/Prot/AP/Genl/2016, dated 10-03-2016, with request to prevent the registrations.

Besides the above averments, learned Standing Counsel also submits that subsequent to impugned proceedings, another proceedings were also issued in the year 2016, but he could not dispute that suit filed by them in O.S.No.10/97 is dismissed and he states that appeal filed against the is pending in A.S.No.1919 of 2001. But there is no interim order in the said appeal filed by the Wakf Board.

It is to be seen that having lost in the civil litigation, the respondent-Board cannot agitate the matter again. This Court has an occasion to deal with the similar issue in WP.No.40516 of 2014 and disposed of the same on 31-10-2016 and in the appeal filed against the same in W.A.No.346 of 2017, Division Bench of this Court held as under:

“ While we may not be understood to have upheld the circular dated 12-03-2018, with respect to the remaining extent, it is evident that the dispute in the writ petition, filed by the first respondent-writ petitioner herein, is confined only to an extent of 800 square yards of land (0.05 cents); and the order of the learned Single Judge, interdicting the said circular dated 12.03.2008, must be read in the light of the relief sought for in the Writ Petition, which relates to an extent of 800 square yards of land alone in terms of the sale deed dated 20-11-2010. Suffice it, therefore, to clarify that the order of the learned Single Judge, interfering with the circular dated 12.03.2008, shall be confined only to the extent of 800 square yards of land claimed by the first respondent-writ petitioner through sale deed dated 20-11-2010, and not for the entire extent of land referred to in the circular dated 12.03.2008.

In view of the same, this writ petition is also allowed in respect of subject land. Any action taken in pursuant to this order will always be subject to orders in the appeal said to have been filed by the respondent-Wakf Board.

There shall be no order as to costs. Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

A.RAJASHEKER REDDY,J

31-12-2018
Nvl