

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

W.P.No.2201 of 2019

ORDER

Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development for respondent No.1, learned Standing Counsel for respondents 2 to 4 and learned Standing Counsel for respondent No.5-Wakf Board.

2. The petitioner asserts that the subject property is notified as Wakf Property vide Serial No.1329 in the Gazette Notification and that the 6th respondent has encroached upon the said property illegally and started construction therein. He asserts that as a 'person interested' in terms of Section 2(k) of the Wakf Act, 1995 (for short 'the Act'), he made a representation dated 29.12.2018 to the respondents to take action against the 6th respondent, but no action has been thereon.

3. Learned Government Pleader submits that on earlier occasion, in similar writ petitions, this Court gave liberty to the persons interested, like petitioner, to approach the Wakf Tribunal to protect the Wakf property.

4. Learned Standing Counsel for the Wakf Board submits that the Wakf Tribunal would take necessary steps to protect the wakf property.

5. Having regard to the respective submissions, it is to be noted that the expression 'person interested in a Wakf', is defined under Section 2(k) of the Act, as under:

“ “person interested in a Wakf” means any person who is entitled to receive any pecuniary or other benefits from the Wakf and includes-

- (i) any person who has right to worship or to perform any religions rite in a mosque, idgah, imambara, dargah, khangah, maqbara, graveyard or any other religious institution connected with the Wakf or to participate in any religious or charitable institution under the Wakf;
- (ii) the wakif and any descendant of the Wakf and the Mutawalli.

Further Section 83(2) of the Act gives an ample right to any person interested in a Wakf or any other person aggrieved by an order made under this Act, or rules made thereunder, may approach the Wakf Tribunal. As the petitioner being a devotee muslim and person interested seeks to protect the property of the Wakf, he can approach the Wakf Tribunal with the supporting material as detailed enquiry is required to be done with respect to the various facts and on verification of the records. In those circumstances, I am not inclined to entertain the present writ petition as there is an alternative remedy available to the petitioner before the Wakf Tribunal.

6. Accordingly, the Writ Petition is disposed of, with liberty to the petitioner to avail the remedy available under law. No order as to costs.

7. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

CHALLA KODANDA RAM, J

8th February, 2019

sj