

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.5229 OF 2019

Date: 14.03.2019

Between:

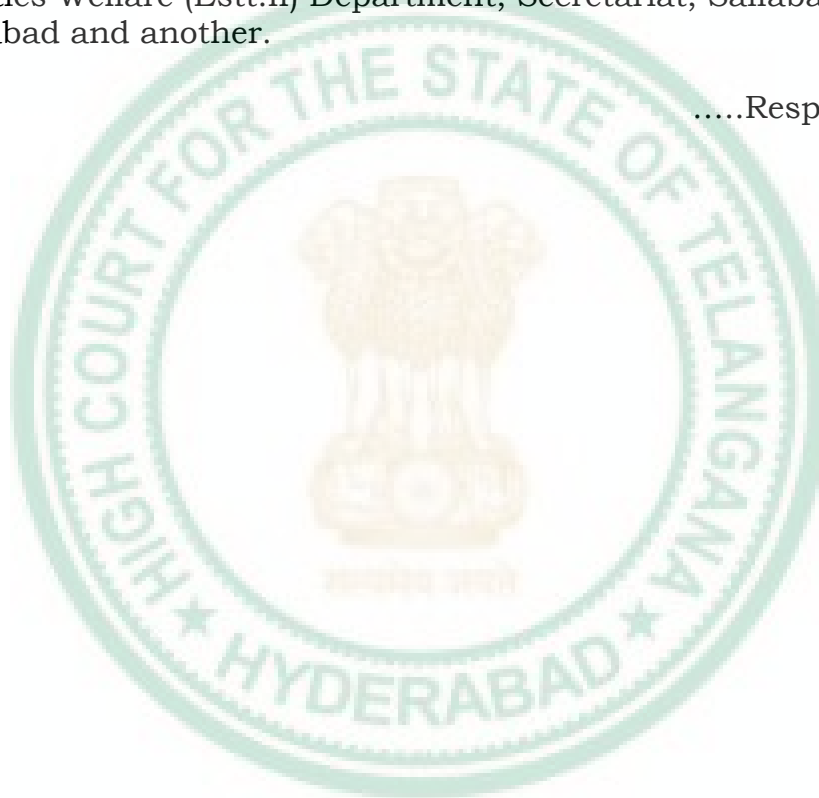
Mr Mohammed Masihuddin Khan, s/o. Mohammed Zaheeruddin Khan, Aged about 52 years, occu:Business, r/o. H.no.17-3-5/6/24/1, Shoukat Jung Devdi, Yakutpura, Hyderabad.

.....Petitioner

and

State of Telangana, rep.by its Special Secretary to Government, Minorities Welfare (Estt.II) Department, Secretariat, Saifabad, Hyderabad and another.

.....Respondents



The Court made the following:

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ORDER:

Petitioner is a tenant of Wakf property, i.e., shop bearing M.C.H.No.21-1-1088/134, situated at Mecca Madina Allauddin Wakf, Pathergatti, Hyderabad. On 16.11.2018, notice under Section 54(1) of Wakf Act, 1995 (Act, 1995) was issued directing the petitioner to pay arrears of rent and enter into a new rental agreement within 15 days. He was also warned that in case of non-compliance of the notice, the Wakf Board would be constrained to initiate appropriate legal action under Section 54(3) of the Act, 1995. This Writ Petition is filed to declare the action of respondent no.2 in not accepting the arrears of rent offered by the petitioner in spite of representation made by him pursuant to the notice issued under Section 54(1) of the Act, 1995, is illegal.

2. Section 54 of the Act, 1995 enables the Wakf Board to initiate proceedings for removal of encroachment of wakf property. Sub-section (1) of Section 54 of the Act, 1995 mandates issuance of notice on the encroacher, and thereafter in consideration of explanation, proceedings under Sub-section (3) can be taken up.

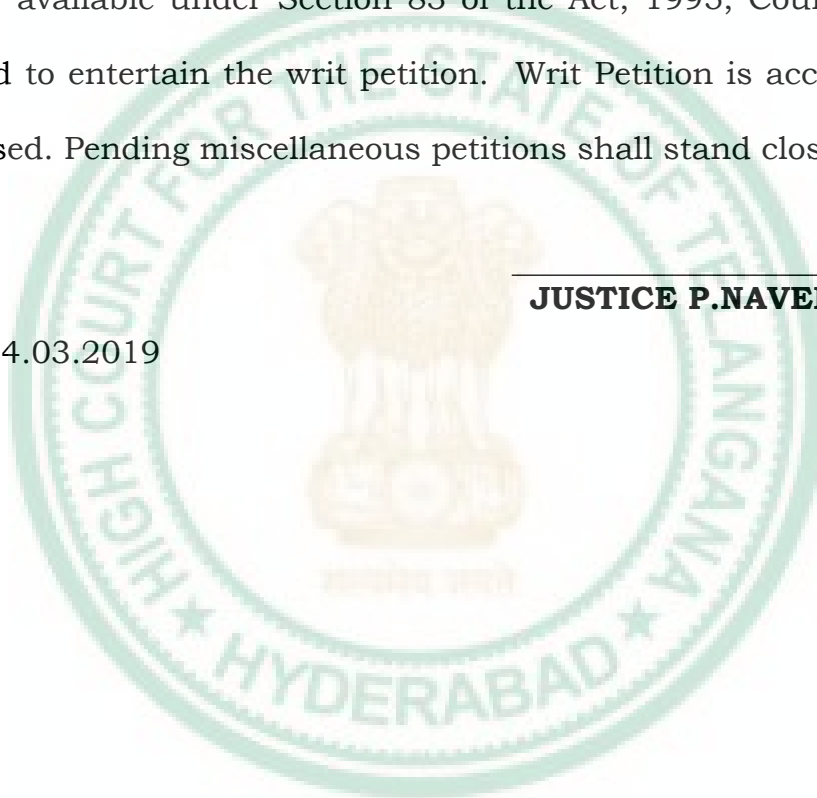
3. Against any decision made by the Wakf Board, remedy is available before the duly constituted Wakf Tribunal under Section 83 of the Act, 1995. If petitioner is aggrieved by the action of respondent-Wakf Board in trying to evict the petitioner declaring him as illegal occupant of the property in issue, he has to avail remedy available to him. Learned counsel for petitioner sought to contend that since petitioner made a representation on the issue of offering to pay rent, and rent is not being accepted, direction may

be issued to the authorities to consider the representation and take a decision thereon.

4. The Wakf Board exercised powers vested in it under Section 54(1) of the Act, 1995, and it cannot be said that authority is not competent to initiate proceedings under Section 54(1) to protect the wakf property. Whether such power was validly exercised, in the given facts of the case, is a matter for consideration by the Wakf Tribunal. Since petitioner has an effective and efficacious remedy available under Section 83 of the Act, 1995, Court is not inclined to entertain the writ petition. Writ Petition is accordingly dismissed. Pending miscellaneous petitions shall stand closed.

JUSTICE P.NAVEEN RAO

Date: 14.03.2019
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