

**THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

**WRIT PETITION No.7884 of 2019**

**ORDER:**

Heard learned counsel for the petitioner, learned Government Pleader for Municipal Administration and Urban Development for respondent Nos.1 to 4 and Sri M.A.Mujeeb, learned Standing Counsel for respondent No.5 -Wakf Board.

2. It is the complaint of the petitioner, who claim to be the 'person interested' in terms of Section 2(k) of the Waqf Act, 1995 (for short 'the Act'), in the waqf property in Survey Nos.403, 373, 372, 353, 355, 103, 15, 2, 3, 400, 432, 100 to 102, 370, 371 and 372, admeasuring Acs.48.10 gts and Ac.8.18 gts respectively, situated at Gajwel Town and Village, Siddipet District, that respondents 6 to 19 have encroached upon the wakf property in Sy.Nos.370, 371, 372, 373 and 400 and raised illegal constructions thereon without obtaining any permission and sanction plan.

3. The learned Government Pleader for Municipal Administration submits that on earlier occasion, in identical situation, this Court gave liberty to the 'person interested', like the petitioner, to approach the Waqf Tribunal to protect the Waqf property.

4. The learned Standing Counsel for the Waqf Board submits that the Waqf 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) (ii) the wakf and any descendant of the Wakf and the Mutawalli.

Further, Section 83(2) of the Act gives ample right to any 'person interested' in a Waqf or any other person aggrieved by an order made under this Act or rules made thereunder, to approach the Waqf Tribunal. Since the petitioner, being devotee and person interested, seeks to protect the property of the Waqf, he can approach the Waqf Tribunal with the supporting material as detailed enquiry is required to be done with respect to the various facts, on verification of the records. Apart from this, since the Wakf Board has been entrusted with the function of protecting the wakf institution and its property, the Wakf Board also shall take necessary steps by initiating proceedings in an appropriate forum for protection of the wakf property, which is their primary duty. In those circumstances, this Court is not inclined to entertain the present Writ Petition as there is an alternative remedy available to the petitioner before the Waqf Tribunal.

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

7. Miscellaneous Applications, if any pending in this Writ Petition, shall stand closed.

**CHALLA KODANDA RAM, J**

15<sup>th</sup> April, 2019  
sj

