

\$~3.

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 6301/2015**

Date of Decision: 11th October, 2019

SHAHID ALI

..... Petitioner

Through: Ms.Bushra Hasan, Adv. with
Mr.Fahad Alam, Adv.

Versus

GNCT OF DELHI & ANR

..... Respondents

Through: Mr.Naushad Ahmed Khan, ASC with
Ms.Manisha Chauhan, Adv. for R-1/GNCTD.
Mr.Tariq Adeeb, Adv. for R-2/Delhi Waqf Board.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE REKHA PALLI

JUDGMENT

: **D. N. PATEL, Chief Justice (Oral)**

1. This so-called public interest litigation has been preferred with the following prayers:-

“a) Pass an appropriate writ of mandamus, thereby directing the respondents and all concerned SDM's posted in GNCT of Delhi to enforce the eviction orders already passed and awaiting enforcement for last several years, under section 54 of the Waqf Act, in terms of provisions contained under section 55 of the Waqf Act 1995 as amended upto date within shortest possible specified period.

b) Pass an appropriate writ of mandamus, thereby directing the respondent No.1 to constitute/establish Waqf Tribunal and to frame the Rules in this regard so as to make the new Waqf Act 1995 operational.”

2. Having heard the learned counsel for both the sides and looking to the

facts and circumstances of the case it appears that the properties in question are owned by Delhi Waqf Board as pleaded in this petition. It appears that the petitioner is wiser than the original owner. Delhi Waqf Board is not an illiterate person or a downtrodden class of person which requires any legal aid. They are quite capable of filing the suit as well as to defend them. They are also capable of taking care of their properties. Delhi Waqf Board has its own management to look after their properties.

3. The petitioner claims that the encroachment upon the properties of the Delhi Waqf Board should be got vacated by Sub-Divisional Magistrates of Government of NCT of Delhi. The list of the properties are given at Annexure P-3 of the memo of the writ petition. We see no reason to entertain this writ petition as a public interest litigation mainly for the following reasons:-

- a) Public interest litigation cannot be filed to espouse the cause of Delhi Waqf Board.
- b) Delhi Waqf Board who is the actual owner of these properties as per the pleadings of the petition, is capable enough to protect their own properties.
- c) It appears that the petitioner claims to be wiser than the Delhi Waqf Board, who cares more than the original owner and who is more interested than the original owner, in vacation of the properties owned by Delhi Waqf Board, which is not permissible.
- d) Learned counsel for the respondent submitted that in the writ petition filed by the Delhi Waqf Board being W.P.(C)No.6275/2015, an order has already been passed on

27th August, 2019 qua the properties owned by Delhi Waqf Board.

4. As and when Delhi Waqf Board will approach the Court for the execution of the above-mentioned order dated 27th August, 2019 passed by this Court, care can be taken in the individual petition or in the appropriate proceedings at the behest of the interested parties.

5. We, therefore, see no reason to entertain this writ petition. The same is therefore, dismissed with costs of Rs.5,000/- to be deposited within six weeks with the Delhi High Court Advocates' Welfare Trust under Delhi High Court Bar Association. A copy of this order be also sent to the President, Delhi High Court Bar Association.

CHIEF JUSTICE

REKHA PALLI, J

OCTOBER 11, 2019
'anb'