

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILU

WRIT PETITION No.22373 of 2016

ORDER:

This writ petition is filed seeking the following relief :-

“....to issue a Writ or Writs more appropriately a Writ of Mandamus declaring impugned proceedings F.No. 33/ B1/ REG/ A/ MDK/ 2003 dated 16.03.2007 is illegal, void and ultra virus and unconstitutional and consequently set aside the same.....”.

Heard the learned counsel appearing for the respective parties.

It has been contended by the petitioners that their father has given Gift in respect of house property bearing Municipal No. 1-3-178 (new) 1-3-118 (old) admeasuring 1176 sq. yards and another house property bearing No.1-3-79 (new) 1-3-118/2 (old) admeasuring 1694 sq. yards situated at Khan Mohalla Zaheerabad Town, Medak District, in the years 2002 and 2003 and since then, they are in possession and enjoyment of the said properties. While so, the respondents have initiated proceedings against them on 16.03.2007 stating that the said properties are Wakf properties and are trying to dispossess them without following the due process of law. Challenging the same, the present writ petition is filed.

Learned counsel appearing for the petitioners submits that as per Sub-Section 7 of Section 36 read with Sub-Section 2 of Section 54 of the Wakf Act, 1995, the Wakf Board has to initiate action against the petitioners after giving reasonable opportunity to the petitioners. But, in the instant case, no procedure has been followed and straight away the respondents are trying to dispossess

the petitioners from the properties in question. Therefore, the learned counsel submits that appropriate orders be passed in the writ petition directing the respondents not to dispossess the petitioners from the properties in question without following the due process of law.

Learned Government Pleader as well as the learned Standing Counsel appearing for the respondents contend that if it is found that the petitioners are in possession of the Wakf properties, appropriate action would be initiated against them and thereafter, the petitioners would be dispossessed from the properties in question.

This Court, having considered the rival submissions made by the learned counsel for the respective parties, is of the considered view that this writ petition can be disposed of directing the respondents not to dispossess the petitioners from the properties in question without following the due process of law. If the petitioners are in possession of the Wakf properties, it is always open for the Wakf Board to take appropriate action against the petitioners by following the due process of law.

With the above observations, the writ petition is disposed of. No order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

ABHINAND KUMAR SHAVIL, J

Date: 19-02-2020
Prv

