

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

**WRIT PETITION Nos.39286, 38643, 38667, 38668, 38711,
38721, 38726, 38774, 38776, 38888, 38951, 38961, 38962,
39048, 39294, 39568, 39510, 39713, 39719, 39722, 39735
and 39743 of 2022**

COMMON ORDER:

Heard learned counsel appearing for the petitioners, learned Assistant Government Pleader for Stamps and Registration appearing for respondent Nos.1 and 2 and Sri Mohd. Ismail, learned counsel, representing Sri Abu Akram, learned Standing Counsel for respondent-Waqf Board.

2. Since the issue involved in all these writ petitions is common, all these matters are disposed of through this common order.

3. The grievance of the petitioners in all these writ petitions is that, the respondent authorities are not receiving and processing the documents sought to be submitted by the petitioners for registration in respect of various properties situated in Mamidipally Village, Moulali, Medchal-Malkajgiri District, on the ground that the subject properties are notified as Waqf properties under the Gazette Notification No.6-A, Published in A.P. Gazette, Part -II, dated 09.02.1989, and also notified in Gazette Notification No.27-A, published in A.P. Gazette, Part-II, dated 01.07.2004, issued by the respondent-Waqf Board in respect of

the lands situated in Survey Nos.401 and 402 of Hanuman Nagar, Moulali under GHMC Medchal-Malkajgiri District.

4. When these matters came up for admission earlier, it was brought to the notice of this Court by learned counsel for the petitioners that the Notification, dated 09.02.1989, basing on which the respondent-Sub Registrar is refusing to receive the documents for registration, was already set aside by this Court in W.P.No.5938 of 2006 and batch, dated 11.02.2021, and the same was also confirmed by a Division Bench of this Court in W.A.No.318 of 2021 and batch, dated 12.11.2021. In view of the same, the matters were adjourned for getting instructions by the learned Assistant Government Pleader for Stamps and Registration as well as learned Standing Counsel for the respondent-Waqf Board.

5. Accordingly, the written instructions are placed before this Court by learned Assistant Government Pleader for Stamps and Registration. From the said instructions placed before this Court, it is evident that the documents that are sought to be presented by the petitioners in these batch of writ petitions for registration are not being entertained by the respondent-Sub Registrar on the ground that the subject properties are notified as Waqf properties through Notifications referred hereinabove, and

that the subject properties are included in the prohibited properties list by treating the same as Waqf properties.

6. In the light of the said instructions placed before this Court by learned Assistant Government Pleader for Stamps and Registration, this Court has gone through the order passed by the learned single Judge of this Court in W.P.No.5938 of 2006 and batch as well as the Judgment passed by the Division Bench of this Court in W.A.No.318 of 2021 and batch. The learned single Judge, by an order, dated 11.02.2021, categorically held as under:

“In view of the law laid down by this Court as well as the Hon’ble Supreme Court in the above referred judgments, this Court is of the opinion that the notification, dated 09.02.1989, issued by the Waqf Board is one without jurisdiction and the same is liable to be set aside. Accordingly, the second batch of writ petitions are allowed and the notification dated 09.02.1989, is set aside.”

7. The said order of learned single Judge of this Court was confirmed by the Division Bench of this Court in W.A.No.318 of 2021, dated 12.11.2021 and batch in the writ appeals preferred by the respondent - Waqf Board and the appeals were dismissed by this Court. As on date, there is no other material placed on record to show that the said

order in writ appeal is assailed before the Hon'ble Apex Court or that the same was stayed by the Hon'ble Apex Court. In the teeth of the categorical finding recorded by the learned single Judge of this Court holding that the Gazette Notification, dated 09.02.1989, issued was one without jurisdiction by the respondent-Waqf Board and the same was already set aside by this Court, this Court is of the considered view that the action of the respondent- Sub Registrar in refusing to receive and process the documents, sought to be presented by the petitioners for registration, by placing reliance on the said Gazette Notification, is totally unsustainable.

8. As is evident from the written instructions placed before this Court by learned Assistant Government Pleader for Stamps and Registration, in addition to the Notification, dated 09.02.1989, there is another notification referred to in the said instructions, dated 01.07.2004. A perusal of the said A.P.Gazette Notification No.27-A, published in A.P. Gazette Part-II, dated 01.07.2004 shows that the same was an Addendum notification issued to the notification No.6-A, published in A.P.Gazette Part-II, dated 09.02.1989. As the original notification, dated 09.02.1989 is held to be one without jurisdiction and was already set aside by the Court,

the Addendum issued to the Notification No.27-A, published on 01.07.2004 also does not stand and has no independent existence.

9. However, Sri Mohd.Ismail, learned counsel representing Sri Abu Akram, learned Standing counsel for the respondent-Waqf Board, submitted that that subject matter of the order of the learned single Judge in W.P.No.5938 of 2006 and batch relates to the lands that are situated in Mamidipally Village and the same are nothing to do with the lands situated in Moulali, Medchal-Malakjiri District, which are the subject matter of the present batch of writ petitions and hence, the said order has no application to the present batch of writ petitions. It is also further contended that unless and until the petitioners herein challenge the said Gazette Notification issued by the Waqf Board in properly instituted suit before the Waqf Tribunal, the writ petitions are not maintainable and the petitioners are not entitled for any relief.

10. Having noted the contentions raised by Sri Mohd Ismail, learned Standing Counsel for Waqf Board and in the light of the observations made hereinabove, especially the fact that Gazette Notification, dated 09.02.1989, was set aside by this Court on the ground that the respondent-Waqf

Board has no jurisdiction to issue such Notification, this Court is of the considered view that the contentions raised by learned Standing Counsel appearing for the Waqf Board does not stand to legal scrutiny. There is no necessity to challenge the Gazette Notification, which is already set aside by this Court. Hence, the said Notification cannot be the basis for refusal to receive and process the documents in question and such contentions does not come in the way of passing appropriate orders in the present batch of writ petitions.

11. In the light of the above undisputed factual and legal position, this Court deems it appropriate to dispose of these batch of writ petitions at the admission stage without awaiting for counter from the respondents.

12. Accordingly, all these Writ Petitions are disposed of, directing the respondent-Sub Registrar to receive, process, register and release the documents that may be presented by the petitioners for registration in respect of their respective properties, without reference to the Gazette Notification No.6-A, published in A.P.Gazette part-II, dated 09.02.1989 and Notification No.27-A, published in A.P Gazette, part-II, dated 01.07.2004, subject to petitioners satisfying with the other requirements, as contemplated under the Registration Act,

1908 and the Indian Stamp Act, 1899. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in these writ petitions shall stand closed.

MUMMINENI SUDHEER KUMAR, J

Date:28.10.2022

YVL

THE HON'BLE SRI JUSTICE MUMMINENI SUDHEER KUMAR

**WRIT PETITION Nos.39286, 38643, 38667, 38668, 38711,
38721, 38726, 38774, 38776, 38888, 38951, 38961, 38962,
39048, 39568, 39294, 39510, 39713, 39719, 39722, 39735
and 39743 of 2022**

Date:28.10.2022

YVL