HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

S.B. Civil Writ Petition No. 6496/2023

Naushad Ali

----Petitioner

Versus

Marwar Muslim Educational and Welfare Society

----Respondent

Connected With

1. S.B. Civil Writ Petition No. 6513/2023
2. S.B. Civil Writ Petition No. 6595/2023
3. S.B. Civil Writ Petition No. 6625/2023
4. S.B. Civil Writ Petition No. 6628/2023
5. S.B. Civil Writ Petition No. 6634/2023
6. S.B. Civil Writ Petition No. 6836/2023
7. S.B. Civil Writ Petition No. 7820/2023
8. S.B. Civil Writ Petition No. 8216/2023
9. S.B. Civil Writ Petition No. 8602/2023
10. S.B. Civil Writ Petition No. 8605/2023
11. S.B. Civil Writ Petition No. 8610/2023
12. S.B. Civil Writ Petition No. 8752/2023

For Petitioner(s)	:	Ms. Shalli Gajja Mr. Rakesh Gupta
For Respondent(s)	:	Mr. C.S. Kotwani Mr. Shahdat Ali

HON'BLE MR. JUSTICE MUNNURI LAXMAN

Order

03/02/2025

The impugned orders in the present writ petitions are pertaining to the orders passed by the Waqf Tribunal under Section 83 of the Waqf Act, 1995.

Learned counsel for the respondents has argued that the writ petitions are not maintainable under Article 226 or 227 of the Constitution of India for the reason that there is a specific provision under the Waqf Act, 195 i.e. Section 83 (9) proviso which states that only a civil miscellaneous application is maintainable against the orders of the Waqf Tribunal. To support

his contention, learned counsel for the respondents has relied upon the decision of the Division Bench of this Court in ***D.B. Civil Writ Petition No.599/2017 (Deva Ram & Ors. Vs. Fakir Mohd. & Ors.)*** passed on 07.08.2018.

Learned counsel for the petitioner submits that similar kind of objection was taken when the stay application was heard and orders were passed granting stay. As seen from the stay orders, this Court has not decided the maintainability of the writ petitions and it only simply granted interim relief.

Section 83(9) proviso of the Waqf Act, 1995 gives remedy to the person aggrieved of the orders of Waqf Tribunal. The proviso says that civil miscellaneous application is maintainable before the High Court only.

Since the present writ petitions are filed under Article 227 of the Constitution of India, in light of decision of the Division Bench of this Court in the case of Deva Ram & Ors. (Supra) and the specific provision provided under Section 83(9) proviso of the Waqf Act, 1995, the writ petitions under Article 227 of the Constitution of India is not maintainable. It is a civil miscellaneous application which is maintainable before the High Court.

In the above facts and circumstances, this Court is intended to exercise the suo motto powers to convert the S.B. Civil Writ Petitions into S.B. Civil Misc. Applications. Registry is directed to register the present writ petitions as S.B. Civil Misc. Applications and list these matters.

(MUNNURI LAXMAN),J

5 to 17 -BhumikaP/-