

IN THE HIGH COURT OF ANDHRA PRADESH: AMARAVATI
HON'BLE MR. JUSTICE DHIRAJ SINGH THAKUR, CHIEF JUSTICE

&

HON'BLE MR. JUSTICE R.RAGHUNANDAN RAO

WRIT APPEAL Nos.414, 756 & 757 of 2023

W.A.No.414/2023

Between:

The A.P. State Waqf Board,
Rep by its Chief Executive Officer,
4th Floor, Imdad Ghar, Waqf Complex
Opp. Kaleswara Rao Market,
Vijayawada Krishna District.

...Appellant

AND

1. Moolinti Padmavathi,, W/o K Chinna Venkateswarlu , Age 45 years, Om. Agriculture, Masa Maseedu Village, H/o Mamidalapadu, Kurnool Mandal, Kurnool District and 6 others.

...RESPONDENTS

W.A.No.756/2023

Between:

The A.P. State Waqf Board,
Rep by its Chief Executive Officer,
4th Floor, Imdad Ghar, Waqf Complex
Opp. Kaleswara Rao Market,
Vijayawada Krishna District.

...Appellant

AND

1. B. Hanumanna @ Boya Chinna Hanumanna, S/o. Late B. Sanjanna R/o. H.No.533 L. Peta Village, H/o. Munagalapadu Kurnool Mandal and District, and 7 others.

...RESPONDENTS**W.A.No.756/2023****Between:**

The A.P. State Waqf Board,
Rep by its Chief Executive Officer,
4th Floor, Imdad Ghar, Waqf Complex
Opp. Kaleswara Rao Market,
Vijayawada Krishna District.

...Appellant**AND**

1. Poladasu Lakshmi Devi, W/o. Late P. Pedda Ayyanna, R/o. 4-25 A, Peddapadu Village, Kallur Mandal, Kurnool District, and 8 others.

...RESPONDENTS

Counsel for the appellant : Sri Gayasuddin

Counsel for respondent No.1 : Sri Ch. Siva Sankar

Counsel for respondents 2 to 4 : G.P. for Revenue

Counsel for respondents 5 & 6 : G.P. for Stamps and Registration

Dt. 23.02.2024**JUDGMENT:4**(per Hon'ble Sri Justice R. Raghunandan Rao)

Heard Sri Mohd. Gayasuddin, learned counsel appearing for the appellant-Wakf Board, Sri Challa Siva Sankar, learned counsel appearing for the appellants in all the appeals, learned G.P. for Revenue appearing for respondents 2 to 4 and learned G.P. for Stamps and Registration appearing for respondents 5 and 6.

2. These three appeals arise out of a common order dated 30.06.2021, passed by the learned Single Judge in W.P.Nos.5300,

5295 and 5298 of 2019. The afore said writ petitions were filed by three sets of people claiming to be the owners of different extents of land in Sy.No.215 of Munagalapadu Village Fields, Kurnool Mandal and District. All these lands are said to be the lands falling within the ambit of Ac.16.52 cents, which had been the subject matter of litigation in O.S.No.39 of 1969 before the Additional Subordinate Judge, Kurnool.

3. The writ petitioners, in the above writ petitions, had approached this Court aggrieved by the refusal of the official respondents in deleting the lands of the petitioners from the prohibited list, communicated under Section 22-A of the Registration Act, 1908, in respect of an extent of Ac.16.52 cents in Sy.No.215 of Munagalapadu Village Fields, Kurnool Mandal and District.

4. It is the case of the writ petitions that the appellant Wakf Board had moved the Court of the Additional Subordinate Judge, Kurnool, by way of O.S.No.39 of 1969, contending that Ac.16.52 cents of land in Sy.No.215 was Wakf property, which had already been notified in the A.P. Gazette, on 24.10.1963, under Section 5 of the Wakf Act, 1954, and that the persons in possession of the said land, viz., Sri Dagada Narayana and 7 others should be evicted from the said land, and that the Wakf Board

should be put in possession of the land. After conduct of a trial, the Additional Subordinate Judge, Kurnool, after considering the submissions made on both sides, had dismissed the suit on the ground that the notification, issued under the Wakf Act, 1954, relied upon by the Wakf Board, would not bind the defendants in the suit. The Trial Judge also held that apart from the said notifications, the Wakf Board had not produced any material or document to show as to how the Wakf Board was making a claim over the said land. The trial Judge had also noticed that the Wakf Inspector, who had given evidence as PW.1, had himself admitted that he had not filed any Inam fair register and was unaware of who had granted or endowed the property and to whom and when the suit institution lost its possession. The aforesaid judgment of the trial Court became final and no appeal has been filed against the said judgment.

5. A learned Single Judge of this Court, after noticing these facts, had held that the question of title of the Wakf Board had already been decided in O.S.No.39 of 1969 and in the absence of any further development, the Wakf Board was incompetent to seek inclusion of the subject property in the list of prohibited properties notified under Section 22-A of the Registration Act, 1908. While disposing of the writ petitions on these lines, the

learned Single Judge had given liberty to the writ petitioners therein, to submit appropriate application through mee-seva for de-notification of the subject properties under Section 22-A of the Registration Act, 1908 and upon such application being made, the respondents were required to dispose of the same in accordance with law within 45 days of the submission of the application.

6. Aggrieved by the said order, the Wakf Board has filed the present set of appeals. The grounds of appeals, as reiterated by Sri Gayasuddin, learned Standing Counsel appearing for the appellant, is that the land has been notified as Wakf Property under the provisions of the Wakf Act, 1954 and as such the judgment of the trial Court would have to give way to the notification under the Wakf Act, 1954. It was further contended that the trial Court had dismissed the suit on the ground of limitation, which was incorrect, and in any event, the present set of writ petitioners had not shown as to how they had obtained title from the defendants in O.S.No.39 of 1969. He would submit that in the absence of such proof, the petitioners would not be entitled to seek deletion of the property from the prohibitory list.

7. Sri C. Siva Sankar, learned counsel appearing for the writ petitioners / respondents, would submit that the judgment of the civil Court was binding on the Wakf Board and the Wakf Board

having failed to take any steps against the said judgment, cannot assail the findings in the judgment or the result of the judgment. He would submit that all the parties to the said suit including the Wakf Board would be bound by the said judgment and as such the learned Single Judge had issued appropriate directions in the common order.

8. A perusal of the judgment in O.S.No.39 of 1969 would show that the trial judge after considering the evidence had held that the notification issued under the Wakf Act would not be binding on the defendants therein and that there was no material placed before the trial Court as to how the property become wakf property in the first place. The said lacuna pointed out by the trial Court has not been rectified or answered by the Wakf Board either before the learned Single Judge or before this Court in relation to the said lacuna.

9. Sri Challa Siva Sankar, learned Standing Counsel appearing for the respondent, would rely upon a judgment of in **Radhakishan vs. State of Rajasthan**¹ wherein a division bench of the Rajasthan High Court had held that any list prepared under the provisions of the Wakf Act, 1954 cannot be final or conclusive as against a non-muslim who is not covered by Section 6(1) of the

¹ AIR 1967 Raj 1

Act and any dispute raised in relation to the question of whether a particular property is a wakf property or not cannot be decided by the Wakf Board and as such any decision of the Board under Section 27 of the Wakf Act, 1954 would not be binding against the persons raising the disputes. The Division Bench had also held that in such disputes the Wakf Board should be restrained from entering the disputed property in the register of wakfs and from dispossessing the petitioners except by way of a suit in a civil Court of competent jurisdiction.

10. In the present case, a suit had been instituted by the Wakf Board for dispossessing the persons and the same was dismissed and no appeal was filed against the said order of disposal. In such circumstances, we do not find any reason to differ with the view taken by the learned Single Judge.

11. Accordingly, these writ appeals are dismissed. There shall be no order as to costs. As a sequel, pending miscellaneous applications, if any, shall stand closed.

DHIRAJ SINGH THAKUR, CJ

R.RAGHUNANDAN RAO, J
JS

**HON'BLE MR. JUSTICE DHIRAJ SINGH THAKUR, CHIEF JUSTICE
&
HON'BLE MR. JUSTICE R.RAGHUNANDAN RAO**

WRIT APPEAL Nos.414, 756 & 757 of 2023

(per Hon'ble Sri Justice R.Raghunandan Rao)

23rd February, 2024

JS