
(2016) 08 AHC CK 0265
In the Allahabad High Court
Case No : Civil Revision No. 255 of 2016

Arbab Wasif

APPELLANT

Vs

Virendra Dayal Sharma

RESPONDENT

Date of Decision : 10-08-2016

Acts Referred:

Waqf Act, 1995 — Section 54(1), Section 54(2), Section 54(4), Section 83(2), Section 83(9)

Citation : (2016) 4 CivilLJ 355

Hon'ble Judges : Pankaj Mithal, J.

Bench : Single Bench

Advocate : Virendra Dayal Sharma and 3 Others, Advocate, for the Opposite Party; Punit Kumar Gupta, Advocate, for the Revisionist; None, for the Respondent

Final Decision : Dismissed

Judgement

Pankaj Mithal, J.—Heard Sri Punit Kumar Gupta, learned counsel for the revisionists.

2. The revisionists, who are Mutwalli of a Waqf Board and the U.P. Sunni Central Waqf Board together have preferred this revision under Section 83(9) of the Waqf Act, 1995 (hereinafter referred to as the Act) against the order dated 17.06.2016 passed by the Waqf Tribunal in Waqf Appeal No.3 of 2016, Virendra Dayal Sharma v. Collector Moradabad and others.

3. It appears that in connection with the Waqf in question the Waqf Board was satisfied under Section 51 of the Act that its immovable properties have been illegally transferred. The Waqf Board recording its said satisfaction made a requisition to the Collector under Section 52(1) of the Act whereupon the Collector had passed an order dated 20.08.2015 directing the respondents to deliver the property to the Waqf Board.

4. The aforesaid action of the Waqf Board and the Collector and the aforesaid

orders were taken in appeal by the respondents under Section 52(4) of the Act which provides for an appeal against the order of the Collector.

5. The order passed by the Waqf Board is appealable under Section 83(2) of the Act and therefore, all the orders which were impugned were appealable either under Section 52(4) of the Act or 83(2) of the Act. The Tribunal by the impugned order has stayed the operation of the aforesaid orders meaning thereby that the dispossession of the respondents from the property in dispute has been stayed pending the appeal.

6. Since the matter involved dispossession of the respondents from the property in question and was likely to visit the respondents with civil consequences, the Tribunal while entertaining the appeal committed no mistake or jurisdictional error in granting interim protection pending the appeal.

7. In such circumstances, I do not consider it fit and appropriate to intervene with the impugned order passed by the Tribunal in exercise of revisional jurisdiction.

8. The submission of Sri Gupta, learned counsel for the revisionists is that the appeal as filed by the respondents was patently barred by time is a matter which has to be dealt by the Waqf Tribunal itself.

9. In view of the aforesaid facts and circumstances, the revision is dismissed with liberty to the petitioners to raise all possible objections including that of appeal being barred by time before the Waqf Tribunal and it is expected that the Tribunal would proceed and decide the appeal itself expeditiously in accordance with law if possible within a period of four months.

10. It is needless to mention that any further transfer of the property in dispute by any of the parties shall abide by the decision of the Tribunal which may be taken on the appeal of the respondents.

11. The revision is dismissed as above.