

(2005) 02 AP CK 0030

In the Andhra Pradesh High Court

Case No : Writ Petition No. 26886 of 2003

Md. Mazhar Shaheed

APPELLANT

Vs

District Collector and Others

RESPONDENT

Date of Decision : 14-02-2005

Acts Referred:

Waqf Act, 1995 — Section 51

Citation : (2005) 2 ALD 238 : (2005) 2 ALT 234 : (2005) 2 RCR(Civil) 446

Hon'ble Judges : Devinder Gupta, C.J.;B. Seshasayana Reddy, J

Bench : Division Bench

Advocate : Moin Ahmed Quadri, for the Appellant; Government Pleader for Revenue for Respondent Nos. 1 and 3 and A.M. Qureshi, for the Respondent

Judgement

Devinder Gupta, C.J.—The writ petition is filed in purported public interest for safeguarding the property of old Edgah of Veerannapet admeasuring 5082 square yards situate in Sy.No. 653 of Veerannapet, Mahaboobnagar. The petitioner has questioned the action of the respondents in trying to convert the said land into a Shadi Khana or for any other purpose.

2. This writ petition was filed when it was learnt that the Minister for Law and Court has laid foundation for the construction of Shadikhana No. II at the religious sensitive place of old Edgah located at Macca Masjid/ Veerannapet locality of Mahaboobnagar against the Islamic laws and faith.

3. Affidavit in reply has been filed by respondent No. 2, the Chief Executive Officer of the State Wakf Bard, Hyderabad in which it is stated that the District Collector, Mahaboobnagar has addressed a letter to the 2nd respondent requesting to gift any open land to the extent of 4000 square yards besides Masjid-e-Albamajboor in Sy.No. 653 of Mahaboobnagar town in favour of the Government Minorities Welfare Department for construction of a Urdu Ghar-cum-Shadikhana. It is also stated that the request for gifting of the land has not yet been considered and that the property of wakf institution cannot be sold or transferred except by following the procedure established under law.

4. The entire wakf property is vested with the Wakf Board for the purpose of its maintenance and administration and cannot be alienated except in accordance with Section 51 of the Wakf Act, 1995. In case if the property is transferred in contravention of Section 51 of the Act, the same can be recovered for the benefit of the wakf.

5. In the instant case, there has been no transfer or gift of the property to the Government and therefore is no question of constructing any Shadikhana or Urdughar on the land in question. Therefore, we dispose of the writ petition with a direction to the respondents not to alienate/ transfer or gift the wakf property for construction of a Urdughar/shadikhana or any other structure on the land of old Edgah of Veerannapet. In case there has to be any alienation/gift, it is needless to add that the respondents have to follow the procedure laid down in law and comply with the provisions of Section 51 of the Act.

6. The writ petition shall accordingly stand disposed of. No. costs.