
(2012) 10 AP CK 0041

In the Andhra Pradesh High Court

Case No : Writ Petition No. 20269 of 2007

Mohd. Kamaluddin

APPELLANT

Vs

A.P. State Wakf Board and Another

RESPONDENT

Date of Decision : 19-10-2012

Acts Referred:

Waqf Act, 1995 — Section 70, 71

Citation : (2013) 2 ALD 582

Hon'ble Judges : Noushad Ali, J

Bench : Single Bench

Advocate : M. Mehdi Hussain, for the Appellant; M.A.K. Mukheed, (NP), Counsel for the Respondent No. 1 and N. Ashwani Kumar, (NP), Counsel for the Respondent No. 2, for the Respondent

Final Decision : Dismissed

Judgement

Noushad Ali, J.—This writ petition is filed complaining against the A.P. State Wakf Board, the 1st respondent herein in failing to initiate enquiry against the 2nd respondent herein under the provisions of Sections 70 and 71 of the Wakf Act, 1995. The 2nd respondent herein is said to be the Mutawalli of Dargah Hzt. Yusufain, situated at Nampally, Hyderabad. The petitioner submitted an application in the prescribed manner to the Board on 7.11.2006 making certain allegations that the 2nd respondent had allotted land for four graves after receiving Rs. 1,00,000/- each and desecrated other graves with a mala fide intention to sell the land to others. It is alleged that 2nd respondent is not protecting the graveyard and is acting against the interests of the institution. He therefore sought for an enquiry and for appropriate action under Sections 70 and 71 of the Act. As the 1st respondent failed to initiate action, the petitioner has filed this writ petition.

2. The 1st respondent though expected to file counter, has not filed the counter-affidavit even after lapse of five years. Unfortunately, even the learned Standing Counsel is also not present though his name has been shown in the cause list.

Similarly, the 2nd respondent also has not filed counter-affidavit and his advocate is also not present though his name is also shown in the cause list.

3. The material filed before this Court shows that the petitioner submitted the complaint through a sworn affidavit on 7.11.2006 duly paying the requisite amount through his Counsel Sri I.M. Sabry.

4. There cannot be any dispute that u/s 70 of the Act any person interested in a Wakf may make an application to the Board supported by an affidavit to institute enquiry relating to the administration of the Wakf and if the Board is satisfied, shall make an enquiry and take appropriate action. The petitioner being an interested person has thus approached the Board by submitting appropriate application for an enquiry.

5. As noticed above serious allegations as to the desecration of graves and sale of graveyard land are made against the 2nd respondent. Therefore a duty is cast upon the Board to conduct enquiry and take appropriate action and safeguard the Wakfs. Unfortunately, the Board has not taken any steps so far though the complaint was filed more than six years ago. There does not appear to be any valid reasons for the inaction. The circumstances therefore warrant issuance of a mandamus to the 1st respondent.

6. For the foregoing reasons this writ petition is allowed with a direction to the 1st respondent-A.P. State Wakf Board to initiate enquiry against the 2nd respondent under Sections 70 and 71 of the Wakf Act 1995 and pass appropriate orders after due notice to both the parties in accordance with law. Orders shall be passed as expeditiously as possible preferably within a period of four months from the date of receipt of a copy of this order,

7. The writ petition is accordingly allowed. No costs. In view of allowing the writ petition WPMP No. 26205 of 2007 is dismissed as unnecessary.