

(2014) 01 KAR CK 0064

In the Karnataka High Court

Case No : Writ Petition No. 25079 of 2012 (GM-WAKF)

Mr. Mirza Habib Aga

APPELLANT

Vs

Karnataka State Board of Wakf

RESPONDENT

Date of Decision : 02-01-2014

Acts Referred:

Waqf Act, 1995 — Section 54(1)

Citation : (2014) 01 KAR CK 0064

Hon'ble Judges : K.L. Manjunath, J

Bench : Single Bench

Advocate : Kamal and Bhanu, for the Appellant; S.R. Anuradha, for R1, for the Respondent

Final Decision : Dismissed

Judgement

K.L. Manjunath, J.—A show cause notice issued by the respondents vide Annexure-P dt. 25.04.2012 is called in question in this Writ Petition. The respondents contends that Writ Petition is not maintainable challenging the show cause notice as the respondents have no intention to take action against the petitioner unilaterally.

2. Having heard the counsel for the parties, the undisputed facts in the Writ Petition is that a show cause notice issued stating that the petitioner has encroached the Wakf property belonging to "Aga Abdul Hussain Wakfs" Richmond Town, Bangalore and before taking action u/s 54(1) of the Wakf Act, a notice is issued to the petitioner to show his cause. Hence this notice is called in question in this Writ Petition.

3. The main contention of the petitioner is, he is a Muthuvalli and action initiated by the respondents to remove him from Muthuvalli post is pending before the Wakf Tribunal. During the pendency of the said proceedings, the present notice is issued. According to him, when the subject matter of removing him from the Muthuvalli post is pending before the Tribunal, no further action can be taken

against him.

4. According to this court, issuance of notice for removing him from Muthuvalli post would be altogether different from removing the encroachment, if any, made by the petitioner on the Wakf property. Both are different issues. The present notice is issued calling upon the petitioner to show cause why an encroachment made by him on the Wakf property shall not be removed. Whether he has encroached any Wakf property or not, is to be decided by the respondents by considering the reply of the petitioner. If the petitioner is of the view that he is not an encroacher, he can always show his cause and cause shown by the petitioner is bound to be considered by the respondents in the manner known to law. With the above observation, petition is dismissed. Two weeks time is granted to the petitioner to send a reply to the show cause notice and thereafter the respondents shall consider the same in accordance with law.