

(2019) 11 DEL CK 0304

In the Delhi High Court

Case No : Civil Writ Petition No. 12342 Of 2019, Civil Miscellaneous Application No.50398 Of 2019

Muhammad Ajmal

APPELLANT

Vs

Delhi Waqf Board

RESPONDENT

Date of Decision : 22-11-2019

Acts Referred:

Waqf Act, 1995 — Section 3(k), 23, 23(1), 54

Citation : (2019) 11 DEL CK 0304

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : M. Sufian Siddiqui, Rakesh Bhugra, Saleem Ahmed, Charu Dalal, Ajay Pratap Singh, Ch. Amit

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

1. The present petition has been filed seeking the following prayer:

"a. Issue a writ in the nature of mandamus thereby directing the Delhi Waqf Board/respondent to discharge their statutory duties as contemplated under the Waqf Act, 1995 whilst taking apposite legal action against all the encroachers inter-alia by forthwith removing them from the Waqf property in question, which is a Qabristan and Dargah of a famous Sufi Saint Hazrat Khwaja Baqi Billah R.A situated at Eidgah Chowk, Qutub Road, Paharganj, New Delhi. And

a. Issue a writ in the nature of mandamus thereby directing the Delhi Waqf Board/respondent herein to discharge their statutory duties strictly in accordance with law as contemplated under the Waqf Act, 1995 whilst ensuring that the Waqf property in question is protected and safeguarded in future by espousing requisite measures. And

b. Grant any other further relief, which this Hon'ble Court may deem fit and

proper in the facts and circumstances of the present case."

2. Mr. Siddiqui, Id. counsel for the Petitioner, submits that the Petitioner is an interested person under Section 3(k) of The Waqf Act, 1995. The only prayer that he is seeking is that encroachers be removed from the Waqf property in question, which is a Qabristan and Dargah of a famous Sufi Saint Hazrat Khwaja Baqi Billah R.A, situated at Eidgah Chowk, Qutub Road, Paharganj, New Delhi (hereinafter, "waqf property").

3. Mr. Ahmed, Id. counsel appearing for the Delhi Waqf Board, has relied upon a letter dated 11th February, 2019, by which it has informed one Mr. Badar Samdani, who had earlier preferred a petition, that proceedings under Section 54 of The Waqf Act, 1995, against encroachers, had already been initiated. However, further action has not been taken as the Chief Executive Officer (hereinafter, "CEO") of the Waqf Board is stated to have demitted office in September, 2019, and no fresh CEO has been appointed.

4. It is evident from the letter dated 11th February, 2019, that the Delhi Waqf Board clearly believes that there are several encroachers in the waqf property. There is no reason as to why the proceedings for removing the encroachers ought not to be taken. Accordingly, it is directed:

a) That the CEO, in terms of Section 23 of The Waqf Act, 1995, be appointed within a period of six weeks from now;

b) The recommendations by the Waqf Board, as per Section 23 (1) to the Government of NCT of Delhi, if not already made, shall be made within two weeks from today;

c) Upon the CEO being appointed, the proceedings for removal of the encroachments from the waqf property shall be commenced in right earnest and shall be concluded within three months from the date on which the new CEO takes charge.

5. Ms. Nidhi Raman, Id. counsel on the Delhi Govt. Panel, who is present in Court today, is directed to communicate today's order to the Government of NCT of Delhi, in order to ensure that steps are taken for appointment of the CEO of the Waqf Board.

6. If the appointment of the CEO is not made within the time which has been directed today, the Petitioner is permitted to approach this Court by way of an application.

7. With these directions, the petition and all pending applications are disposed of.

8. A copy of this order be given dasti under signatures of the Court Master.