

Mehmooda Vs. Aukaf-e-shaahi

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Court : Madhya Pradesh

Decided On : May-06-2013

Appellant : Mehmooda

Respondent : Aukaf-e-shaahi

Advocate for Pet/Ap. : Shri. Imtiaz Hussain

Judgement :

W.P. No. 6838 of 2013 6.5.2013 Shri Imtiaz Hussain, learned counsel for the petitioner.

Heard on admission.

Raising a grievance that the petitioner has No. been afforded a reasonable opportunity to file a written statement/ reply in a proceeding initiated under Section 54 of the Wakf Act, 1995; petitioner has filed this petition seeking quashment of orders Annexure P1A and P1B; (whereby the right to file written statement/reply has been closed). And direction to the Secretary, AukaafeShaahi, to give the petitioner opportunity to file written statement/reply.

Proceedings for eviction of the petitioner from Wakf Property emanates from the order dated 19.10.2012 passed in Writ Petition No. 13895/2008 (M.P. Hanfi v. The State of M.P. and others). Said writ petition was a Public Interest Litigation seeking direction for removal of encroachment over 40 acres of Wakf Property; wherein, the Division Bench after taking into consideration the rival submissions, disposed

of the petition in following terms. We have considered the respective submissions made by the parties.

In our considered opinion, in a writ petition which is a summary proceeding, the question of status and rights of the persons of occupying certain property cannot be determined.

There are adequate provisions in the Wakf Act for removal of encroachment, if any, on the Wakf property. The Wakf Board has already initiated action for removal of the encroachment in accordance with the provisions of the Wakf Act. In view of the stand taken by the State Government in paragraph No. 2 of the reply, it is directed that the State Government shall provide adequate police protection to the Wakf Board for removal of the encroachment in accordance with the law on the Wakf Property.

It is made clear that this order shall not relieve the Board from its obligation to obtain the possession of the premises in accordance with the law. The Wakf Board as well as the State Government shall ensure that there is no unnecessary delay in removing the encroachment.

It is made clear that we have not expressed any opinion on merits of the case.

With the aforesaid directions, the writ petition stands disposed of.

It is in furtherance to said direction, the Wakf Board has initiated the proceedings under Section 54 of 1995 Act.

As evident from the proceedings in the Court of Chief Executive Officer that, despite of the repeated opportunities granted to the petitioner, the written statement/reply was not filed, which led the Chief Executive Officer to close the petitioner's right.

Though it is contended that, the Chief Executive Officer, has acted arbitrarily in not giving the opportunity to file written statement/reply, the contentions are not substantiated.

It is evident from the proceedings that three opportunities were granted to file reply. In the given facts wherein the petitioner has been noticed as an encroacher of Wakf Property, the petitioner canNo. be given liberty to proceed leisurely and of its own sweet will with an intention to drag on the matter.

In view whereof the exercise of jurisdiction vested in the Chief Executive Officer, M.P. Wakf Board cannot be faulted with. No interference is caused.

Petition fails and is hereby dismissed. No costs.

(SANJAY YADAV) JUDGE Vivek Tripathi

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