



**IN THE HIGH COURT OF ANDHRA PRADESH : AMARAVATI**  
**HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE**  
**&**  
**HON'BLE MR. JUSTICE NINALA JAYASURYA**

**W.A Nos. 394 and 291 of 2022**

*(Proceedings through physical mode)*

**W.A No. 394 of 2022:**

The A.P. State Waqf Board,  
Rep.by its Chief Executive Officer,  
Imdadghar, Vijayawada. ..Appellant

Versus

G. Rama Chandra Reddy S/o. Ramaiah,  
Aged about 72 years, r/o. Alluru village,  
Tadipatri Mandal, Anantapur District,  
Doc.No.5787/2015 and others. ..Respondents

Counsel for the Appellant : Mr. P. Veera Reddy,  
Senior Counsel assisted by  
Mr. Shaik Karimullah,  
Standing Counsel

Counsel for Respondents No.1 to 6 : Mr. Gudapati Venkateswara Rao

Counsel for Respondents No.7 to 11 : G.P. for Revenue

**W.A No. 291 of 2022**

The A.P. State Waqf Board,  
Rep.by its Chief Executive Officer,  
Imdadghar, Vijayawada. ..Appellant

Versus

Gunampalli Pulla Reddy Charities Trust,  
Rep.by its Managing Trustee,  
Sri Palagiri Subba Reddy,  
S/o. P. Venkata Reddy, aged about 68 years,  
R/o. H.No.10-2-289/21, Shanthi Nagar,  
Hyderabad and others. ..Respondents

Counsel for the Appellant : Mr. P. Veera Reddy,  
Senior Counsel assisted by  
Mr. Shaik Karimullah,  
Standing Counsel

Counsel for Respondent No.1 : Mr. Gudapati Venkateswara Rao

Counsel for Respondents No.2 to 6 : G.P. for Revenue

**COMMON JUDGMENT (ORAL)****Dt: 08.07.2022***(per Prashant Kumar Mishra, CJ)*

These two writ appeals are directed against the common order dated 17.12.2021 passed by the learned single Judge in W.P. Nos.16911, 17177 and 17276 of 2021 whereby while allowing these three writ petitions, the learned single Judge held that the inclusion of lands involved in the three writ petitions in Section 22-A list i.e., the list of prohibited properties, is contrary to law and also directed the respondent No.5/the District Registrar, Kurnool Mandal and District, to receive and register the documents presented by the writ petitioners, if the same are otherwise in order and in accordance with the Stamp Act and Registration Act. W.A. No.394 of 2022 arises out of W.P. No.17276 of 2021, while W.A. No.291 of 2022 arises out of W.P. No.17177 of 2021.

2. The appellant in both the appeals is the Andhra Pradesh State Waqf Board. According to the Board, the land in Sy.No.19 measuring Ac.59.90 cents of Dinnedavarapadu village is a waqf property, therefore, it's inclusion in the list of prohibited properties is in accordance with law and the learned single Judge has failed to appreciate the material available on record while dealing with the said aspect of the matter.

3. Learned single Judge has recorded a finding that the entire issue between the parties revolves around the judgment of the Division Bench of the combined High Court in W.P. No.989 of 2007 dated 20.06.2011. In the said judgment, the Division Bench was dealing with the Gazette notification of 24.10.1963 wherein at Sl.No.3035 a reference was made to the property in Dinnedavarapadu village. In addition, the Division Bench also considered the addendum notification by which Sy.No.19



T.D. No. 1679 measuring Ac.59.90 cents was included as a waqf property. The Commissioner's report, as referred in the Division Bench, also stated that the properties were alienated by that date itself. However, it is not clear as to how the property was endowed or settled in favour of the mosque. Thus, it was not clear as to on what basis the Commissioner has recorded this property to be belonging to the mosque. Thereafter, the Division Bench refers to the decision in O.S.No.43 of 1969, wherein the civil Court clearly declared that the Waqf Board failed to establish their title to the property. There was a gazette notification dated 01.09.2005, which is in fact, an addendum notification, including the description of the properties of the extent of Ac.59.90 cents in the Sy.No.19 of Dinnedavarapadu village. Since the earlier notification dated 24.10.1963 did not specifically mention the particular survey number, the addendum notification was issued, which was set aside by the Division Bench in W.P.No.989 of 2007. The Division Bench thereafter, reserved liberty in favour of the Board in the following matters:

*"Having regard to the facts and circumstances of the case however, it is considered appropriate to reserve liberty in the Board to consider all the facts and circumstances including for ascertaining and marshalling documents pertaining to the endowment of this property in favour of the wakf institution; title deeds if any or any other relevant material to support the claim of the Wakf board as to the title in this property in favour of the wakf institution – "Kottala Mosque", "Dinnedavarapadu Mosque" or "Khasim Sahib Mosque", as the case may be, in Dinnedavarapadu village of Kurnool Mandal and District and after due consideration of such material including the judgment dated 27.10.1969 in O.S. No.43 of 1969 of the learned Subordinate Judge, Kurnool; the Board may, after issuing notices to the petitioners and other persons in occupation*



*of the properties in Sy.No.19 of Dinnedavarapadu village, if satisfied, issue a fresh notification and in accordance with law. Alternatively, the Wakf Board may also consider the advisability of filing a civil suit for declaration of its title in respect of this property. The maintainability of such suit or grant of relief(s) therein shall be however decided by the appropriate Court before which it is presented, in accordance with law. Since the impugned Gazette notification dated 01.09.2005 is declared unsustainable and is quashed by this judgment, the respondent-Board shall not be authorized to pursue proceedings under the Act against the petitioners, on the assumption that the schedule property is property belonging to the wakf until a formal and lawful declaration of the property being wakf property is re-notified in accordance with law."*

4. Admittedly, after quashing the notification dated 01.09.2005 by the Division Bench, a fresh exercise has not been undertaken by the Waqf Board for determining and including the subject land as waqf property. In the absence of any fresh notification declaring the subject property as waqf property in a lawful manner, inclusion of the property in 22-A list is not at all justified and the learned single Judge has rightly held that inclusion of the subject property in 22-A list is not in accordance with law.

5. At this stage, Mr. P. Veera Reddy, learned Senior Counsel would submit that the decision in the impugned judgment of learned single Judge would come in the way of the Waqf Board in exercising the liberty reserved in its favour by the Division Bench in W.P.No.989 of 2007.

6. We are afraid, no such conclusion can be drawn by reading the order passed by the learned single Judge. It is not possible that liberty reserved in favour of the Waqf Board by the Division Bench can be set at naught by a single Bench. The liberty still remains intact in favour of



the Waqf Board and the Board would be entitled to exercise its liberty in accordance with law.

7. Accordingly, both the writ appeals are dismissed. No costs.

Pending miscellaneous applications, if any, shall stand closed.

**PRASHANT KUMAR MISHRA, CJ**

**NINALA JAYASURYA, J**

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**HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA, CHIEF JUSTICE**  
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**HON'BLE MR. JUSTICE NINALA JAYASURYA**

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*(per Prashant Kumar Mishra, CJ)*

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