

APHC010582842025



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3332]

TUESDAY, THE 4th DAY OF AUGUST 2026

PRESENT

THE HONOURABLE SRI JUSTICE RAVI CHEEMALAPATI

WRIT PETITION NO: 29981/2025

Between:

1.SHAIK MOHAMMED ISMAIL, S/O AMEER BASHA, AGED ABOUT 54 YEARS, OCC MECHANIC, R/O DOOR NO.5/60, DR. GAFFAR STREET, OSMANIA COLLEGE RAOD, KURNOOL, CITY, KURNOOL DISTRICT, ANDHRA PRADESH

...PETITIONER

AND

1.THE STATE OF ANDHRA PRADESH, REP BY ITS PRINCIPAL SECRETARY, MINORITY WELFARE DEPARTMENT, SECRETARIAT, VELAGAPUDI, AMARAVATHI.

2.ANDHRA PRADESH STATE WAKF BOARD, IMDAD GAHR, KALESWARA MARKET, VIJAYAWADA. REP BY ITS CHIEF EXECUTIVE OFFICER.

3.THE INSPECTOR AUDITOR WAKF, KURNOOL DISTRICT.

4.THE MUTTAWALI, SULTANIA MASJID AND SULTANIA EIDGAH INSTITUTIONS, DOOR NO.41/327-J3, KOTHAPETA, KURNOOL.

5.KHAZI YAKUB BASHA, CHIEF EXECUTIVE OFFICER, ANDHRA PRADESH STATE WAQF BOARD, IMDAD GHAR, KALESWARA MARKET, VIJAYAWADA. R5 IS IMPEADED AS PER C.O. DT.23.03.2026 IN IA NOS.2 OF 2026

...RESPONDENT(S):

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to grant the relief sought. It is therefore prayed that this Hon'ble court may be pleased to issue a writ or writs or order or orders one more particularly in the nature of

Writ of Mandamus i declaring the action of the 3rd and 4th Respondents in interfering with the possession of Petitioner at the behest of the 5th Respondent pertaining to shop in land admeasuring 177 square yards in survey no.383/2 of Kallur area within Kurnool Municipal Corporation, Kurnool, bounded by East- National Higway No.7, West- Eidga Road, North-Compound wall of Balaji Petrol bunk, South- Masjid Rasta without following due process of law as illegal, arbitrary and unconstitutional ii declare appointment of the 5th Respondent as Chief Executive Officer of the 2nd Respondent, vide G.O.Rt.No.116, dated 31/12/2025 by the 1st Respondent contrary to section 23 of the Wakf Act, 1995 non-est and not entitled to file counter affidavit and consequently direct the 2nd to 5th Respondents not dispossess the Petitioner from the shop in land admeasuring 177 square yards in survey no.383/2 of Kallur area within Kurnool Municipal Corporation, Kurnool, bounded by East -National Higway No.7, West -Eidga Road, North-Compound wall of Balaji Petrol bunk, South- Masjid Rasta without following due process of law and be pleased to pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice. The Prayer is amended as per Court Order dt.23.03.2026 in I.A.No.3 of 2026.

IA NO: 1 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Pleased to direct the 3RD and 4TH Respondent not to dispossess the Petitioner from the shop in land admeasuring 177 square yards in survey no.383/2 of Kallur area within Kurnool Municipal Corporation, Kurnool, bounded by East; National Higway No.7, West: Eidga Road, North: Compound wall of Balaji Petrol bunk. South; Masjid Rasta without following due process of law and be pleased to pass

IA NO: 2 OF 2025

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be grant leave and extent the time for submitting the instructions as detailed in the order dated. 12.11.2025 and pass

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased May be pleased to vacate the interim order, dt.31-10-2025 and dismiss the present writ petition with exemplary costs and pass

IA NO: 2 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to implead the proposed Respondent as Respondent no.5 in Writ Petition No.29981 of 2025 and be pleased to pass

IA NO: 3 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to amend the prayer as "It is therefore prayed that this Hon'ble court may be pleased to issue a writ or writs or order or orders one more particularly in the nature of Writ of Mandamus i) declaring the action of the 3rd and 4th Respondents in interfering with the possession of Petitioner at the behest of the 5th Respondent pertaining to shop in land admeasuring 177 square yards in survey no.383/2 of Kallur area within Kurnool Municipal Corporation, Kurnool, bounded by East: National Highway No.7, West Eidga Road, North: Compound wall of Balaji Petrol bunk, South Masjid Rasta without following due process of law as illegal, arbitrary and unconstitutional ii) declare appointment of the 5th Respondent as Chief Executive Officer of the 2nd Respondent, vide G.O.Rt.No.116, dated 31/12/2025 by the 1st Respondent contrary to section 23 of the Wakf Act, 1995 non-est and not entitled to file counter affidavit and consequently direct the 2nd to 5th Respondents not dispossess the Petitioner from the shop in land admeasuring 177 square yards in survey no.383/2 of Kallur area within Kurnool Municipal Corporation, Kurnool, bounded by East: National Highway No.7, West Eidga Road, North Compound wall of Balaji Petrol bunk, South Masjid Rasta without following due process of law and be pleased to pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice." INSTEAD OF "It is therefore prayed that this Hon'ble court may be pleased to issue a writ or writs or order or orders one more particularly in the nature of Writ of Mandamus declaring the action of the 3rd and 4th Respondents in interfering with the possession of Petitioner pertaining to shop in land admeasuring 177 square yards in survey no.383/2 of Kallur area within Kurnool Municipal Corporation, Kurnool, bounded by East National Highway No.7, West Eidga Road, North Compound wall of Balaji Petrol bunk, South Masjid Rasta without following due process of law as illegal, arbitrary and unconstitutional and consequently direct the 3rd and 4th Respondent not dispossess the Petitioner from the shop in land admeasuring 177 square yards in survey no.383/2 of Kallur area within Kurnool Municipal Corporation, Kurnool, bounded by East: National Highway No.7, West Eidga Road, North

Compound wall of Balaji Petrol bunk, South Masjid Rasta without following due process of law and be pleased to pass

Counsel for the Petitioner:

1.SATHEESH KUMAR EERLA

Counsel for the Respondent(S):

1.MASALEGAR HIDAYATHULLA

2.GP FOR SOCIAL WELFARE

3.VARREY VENKATA NAGA VISHNU TEJA

4.SHAIK KHAJA BASHA

The Court made the following:

ORDER

The writ petition has been filed questioning the action of the respondent nos. 3 and 4 in interfering with the possession of the petitioner pertaining to shop in an extent of 177 sq.yards in Survey No.383/2 of Kallur area within Kurnool Municipal Corporation, Kurnool, without following the due process of law.

2. Heard Sri Satheesh Kumar Eerla, learned counsel for petitioner, Sri V.V.Venkata Naga Vishnu Teja, learned counsel for respondent no.5, Sri S.M.Subhani, learned counsel, representing Sri M.Hidayathula, learned counsel for respondent no.4-Muttawali, Sultania Masjid and Sultania Eidgah Institutions, and Sri Shaik Khaja Basha, learned counsel for A.P.State Waqf Board.

3. Sri Satheesh Kumar Eerla, learned counsel for petitioner, while reiterating the contents of the writ affidavit, would contend that the petitioner is the absolute owner and has been in possession of the schedule property and the respondents are trying to evict and dispossess him from the subject property. He would further contend that this Court by way of interim order dated 31.10.2025 directed both the parties to maintain status quo and accordingly prayed to dispose of the petition making the interim orders as final orders.

4. On the other hand Sri S.M.Subhani, learned counsel, representing Sri M.Hidayathula, learned counsel for respondent no.4-Muttawali, submitted that

the petitioner is not at all in possession of the property and no material whatsoever was filed to prove his possession over the property and accordingly prayed to dismiss the writ petition.

5. Perused the material available on record and considered the submissions made by learned counsel for the parties.

6. Except a photograph enclosed to reply affidavit, no material whatsoever was placed on record to show that the petitioner was in possession of the property as on the date of filing of the writ petition. In the absence of any material, this Court cannot presume possession of the petitioner over the subject property. Since the respondents disputed possession of the petitioner over the subject property and as the petitioner failed to place any material on record to substantiate his possession over the subject property, this Court cannot adjudicate the disputed questions of fact while exercising jurisdiction under Article 226 of the Constitution and therefore, the petitioner is relegated to approach competent Forum for redressal of his grievance.

7. Accordingly, this writ petition is dismissed, relegating the petitioner to competent Forum for redressal of his grievance. There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

JUSTICE RAVI CHEEMALAPATI

4th August, 2026

RR