

ITEM NO.202

COURT NO.7

SECTION XIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (C) No(s). 5580-5584/2008

(Arising out of impugned final judgment and order dated 31/08/2007 in ASMP No. 1177/2006 in AS No. 504/1996, ASMP No. 1123/2007 in AS No. 1353/1996, ASMP No. 1122/2007 in AS No. 1228/1997, ASMP No. 1120/2007 in AS No. 1240/1997 and ASMP No. 1121/2007 in AS No. 171/1998 passed by the High Court of Judicature of A.P. at Hyderabad)

MD.SALEEM UR RAHMAN (SINCE DEAD)

Petitioner(s)

VERSUS

P.RADHAKRISHNAIAH & ORS. ETC. ETC.

Respondent(s)

(With appln.(s) for impleadment, exemption from filing c/c, substitution for bringing on record legal representatives of deceased petitioner, exemption from filing O.T., permission to file additional documents, interim relief and office report)

(For final disposal)

WITH

SLP(C) No. 19748-19752/2008

(With appln.(s) for substitution for bringing on record legal representatives of deceased petitioner, interim relief and Office Report)

SLP(C) No. 19755-19759/2008

(With Interim Relief and Office Report)

CONTEMPT PETITION(C) No. 88-92/2009 In SLP(C) No. 5580-5584/2008

(With appln.(s) for directions, exemption from filing O.T., substitution for bringing on record legal representatives of deceased petitioner and Office Report)

CONTEMPT PETITION(C) No. 93-97/2009 In SLP(C) No. 5580-5584/2008

(With appln.(s) for exemption from filing O.T., substitution for bringing on record legal representatives of deceased petitioner and Office Report)

Date : 05/01/2016 These petitions were called on for hearing today.

Signature Not Verified

Digitally signed by

Sukhbir Paul Kaur

Date: 2016.01.06

CORAM :

16:55:39 IST

Reason:

HON'BLE MR. JUSTICE RANJAN GOGOI

HON'BLE MR. JUSTICE PRAFULLA C. PANT

2

For Petitioner(s) Mr. R. Chandrachud, Adv.
Mr. A. Ramesh, Adv.
Ms. Promila, Adv.
Mr. Syed Ahmad Naqvi, Adv.

Mr. R. Chandrachud, Adv.
Mr. A. Ramesh, Adv.

Mr. Syed Ahmad Naqvi, Adv.
Ms. G. Madhavi, Adv.

For Respondent(s) Mr. Nikhil Swami, Adv.
Ms. Diya Swami, Adv.
Mrs. Prabha Swami, Adv.

Mr. M. Srinivas R. Rao, Adv.
Mr. Arun Devdas, Adv.
Mrs. Sudha Gupta, Adv.

Mr. Sudarshan Rajan, Adv.

Mrs Rani Chhabra, Adv.
Ms. Priyanka Sony, Adv.

Mr. V. Seshagiri, Adv.
Ms. Shruti Khanijow, Adv.
For M/s. Cyril Amarchand Mangaldas

Mr. D. Mahesh Babu, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The High Court of Andhra Pradesh by its
impugned judgment and order dated 31.08.2007, after
rejecting the prayer of the petitioner for
impleadment, has held that the disputed properties
are not Wakf properties and that the sale of the
said properties to the respondents-purchasers are
valid in law.

3

As against the aforesaid order of the High
Court, three sets of special leave petitions have
been filed. The first i.e. Special Leave Petition
(C) Nos.5580-5584 of 2008 has been filed by Md.
Saleem-ur-Rahman as against the order rejecting his
application for impleadment. The aforesaid person,
Md. Saleem-ur-Rahman, claims to be a mutawalli.
The said person has also filed another set of
petitions i.e. Special Leave Petition(C)
Nos.19748-19752 of 2008 challenging the order
passed by the High Court on merits. There is yet
another set of special leave petitions i.e. Special
Leave Petition(C) Nos. 19755-19759 of 2008, which
has been filed by certain persons who are not

parties to the suit but claim that as the issues involved therein pertain to religious functions of the mosque, they should be allowed to agitate their grievances against the order of the High Court on merits.

Insofar as the aforesaid set of Special Leave Petition Nos.19755-19759 of 2008 are concerned, the matter need not detain the Court inasmuch as in a purely civil proceeding, the

4

petitioners cannot be allowed to have their say merely on the strength of the claim that the issues involved pertain to religious functions related to a mosque. Special Leave Petition Nos. 19755-19759 of 2008, therefore, are not entertained on the aforesaid score and are dismissed accordingly.

Insofar as Special Leave Petition Nos. 5580-5584 of 2008 are concerned, the petitioner who had claimed to be the mutawalli i.e. Md. Saleem-ur-Rahman is no more. His legal representative(s) has/have filed application(s) for substitution which is yet to be ordered. We have

queried the learned counsel for the petitioner whether the legal representative(s) of deceased Md. Saleem-ur-Rahman is/are mutawalli(s). The answer

that has been provided to us is that following the death of the petitioner, Md. Saleem-ur-Rahman, the Wakf Board has passed an order dated 26.06.2014 in favour of a Managing Committee vesting in it the duties of the mutawalli. The aforesaid order has

been challenged by the legal representative(s) of the deceased Md. Saleem-ur-Rahman in Writ Petition No.18295 of 2014, which is presently pending before

5

the High Court wherein a further direction to the

Andhra Pradesh State Wakf Board to recognize the petitioner in the writ petition as the mutawalli has also been prayed for.

The above facts would show that as on date the legal representative(s) of the deceased petitioner, Md. Saleem-ur-Rahman, has/have not been recognized as mutawalli by the Wakf Board. In the absence of any such recognition even if we are to assume that the petitioner, Md. Saleem-ur-Rahman, was the mutawalli after he had retired from government service, the entitlement of the legal representative(s) of the aforesaid person to prosecute the special leave petition Nos. 5580-5584 of 2008 would be in serious doubt.

In such a situation the only person who could be understood to be aggrieved, if at all, by the impugned order of the High Court insofar as the merits are concerned would be the Andhra Pradesh Wakf Board which has chosen not to institute any proceeding against the aforesaid part of the order of the High Court. As the legal representative(s) of the deceased petitioner do not presently have

6

any right to prosecute the special leave petitions following the death of the petitioner, Md. Saleem-ur-Rahman, we hold that the proceedings in the Special Leave Petition Nos.5580-5584 of 2008 and the connected SLP(C) Nos.19748-19752 of 2008 must come to an end. We, accordingly, close the aforesaid two sets of special leave petitions in terms of the present order.

In view of order passed above, contempt petition Nos. 88-92 of 2009 and 93-97 of 2009 and all other pending application(s) are disposed of.

(Neetu Khajuria)
Sr. P.A.

(Asha Soni)
Court Master