

# Waqf Act, 1995

As amended up to date

# OUTLINE

- Enforcement by Court Rulings
- Relevant Sections of the Act
  
- Cause
- Discussion
- Conclusion
- Linkages

# **Ramesh Gobindram vs Sugra Humayun Mirza**

- J. Markandey Katju and J. A.S.Thakur
- Order dated September 1, 2010
- Civil Appeal No. 1182 of 2006

# S. C.

- Ramesh Gobindram (dead) through Lrs.  
...Appellant

Versus

- Sugra Humayun Mirza Wakf ...Respondent
- (with C.A. No. 1183 of 2006 and C.A. No. 3605 of 2008)

# CAUSE

- Three different cases clubbed together
- Appeals against the failed Revision Petitions filed before the A. P. High Court
- That affirmed the eviction orders by the Tribunal
- Was the Tribunal competent to pass eviction orders

# Appellant

- The Tribunal was in error in assuming jurisdiction
- And in directing their eviction

# The S. C.

- It would depend on the scheme of the Wakf Act, 1995  
And
- Express or implied exclusion of the jurisdiction of the Civil Courts to entertain such disputes
- Divergence of opinion amongst the various High Courts on this subject

# Relevant Sections

- Section 6 of the Waqf Act, 1995
- (a), (b) and (c) added after sub-section (1) by the Waqf Amendment Act, 2013
- “any person aggrieved” in place of “any person interested therein”
- Section 7
- (a) in sub-section (1):
- (i) “any question or dispute”, in place of “any question”



# Waqf Act

- (ii) “any person aggrieved...” in place of “any person interested”
- (b) following sub-section inserted
- (6) Tribunal vested with powers of assessment of damages...

# 2013 AMENDMENTS

- Section 54
- (a) Change in power of the CEO
- (b) Tribunal to conduct proceedings for eviction
- Section 83
- (a) sub-section (1) substituted ...constitute a Tribunal “for the determination of any dispute, question or other matter relating to a waqf or waqf property, **eviction of a tenant** or.....”

# 2013 AMENDMENTS

- (b) substitution of sub-section (4)
- (a) chairman
- (b) member - official
- (c) member - expert

# S.C.

- “The crucial question that shall have to be answered in every case where a plea regarding exclusion of the jurisdiction of the Civil Court is raised is whether the Tribunal is under the Act or the Rules required to deal with the matter sought to be brought before a Civil Court. If it is not, the jurisdiction of the Civil Court is not excluded. But if the Tribunal is required to decide the matter the jurisdiction of the Civil Court would stand excluded”.

# S.C.

- “In the cases at hand the Act does not provide for any proceedings before the Tribunal for determination of a dispute concerning the eviction of a tenant in occupation of a wakf property or the rights and obligations of the lessor and the lessees of such property. A suit seeking eviction of the tenants from what is admittedly wakf property could, therefore, be filed only before the Civil Court and not before the Tribunal. The contrary view expressed by the Tribunal and the High Court of Andhra Pradesh is not, therefore, legally sound”.

## S. C. some other cases

- **Board of Wakf, West Bengal vs Anis Fatima Begum, Katju & Gyan Sudha Mishra, November 23, 2010 – Re-endorsed** (all cases to be filed before the Tribunal in the first instance)
- [Gurudwara Sahab v. Gram Panchayat Village Sirthala](#), AK Sikri & KS Radhakrishnan, 16 September 2013 – **possessionary** issue (may be used as a shield by the defendant but not as a sword by the plaintiff)

## S. C. some other cases

- **Punjab Wakf Board Vs Shyam Singh Harike, Ashok Bhushan & KM Joseph, February 7, 2019**
  - TWO cases
  - (i) Ramesh Gobindram distinguished, Revision Petition of the H.C. disallowed (reg. the Tribunal not having jurisdiction over a non-Muslim)
  - (ii)