THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

+ WRIT PETITION Nos.8431 and 11730 of 2014

% Date:25.04.2024

Viceroy Hotels Limited and others

... Petitioners

vs.

$ Telangana State Wakf Board, Hyderabad and others

... Respondents

! Counsel for the Petitioners in W.P.No.8431 of 2014:
: Mr. S.Niranjan Reddy, learned Senior Counsel for
Mr. N.Naveen Kumar

Counsel for the Petitioners in W.P.No.11730 of 2014:
: Mr. S.Nagesh Reddy, learned counsel for
Mr. T.Bala Mohan Reddy

^ Counsel for the respondent No.1 : Mr. Vedula Venkataramana, learned Senior Counsel for Mr. Abu Akram, learned Standing Counsel for Telangana State Wakf Board

Counsel for the respondent No.2 : Mr. A.M.Qureshi, learned Senior Counsel for Mr. M.A.K.Mukheed, learned counsel

< GIST:

➢ HEAD NOTE**:**

? CASES REFERRED:

1. (1979) 2 SCC 468
2. (2000) 2 SCC 121
3. (2008) 9 SCC 306
4. 2022 SCC Online SC 159
5. 2023 SCC Online TS 3820
6. (2003) 8 SCC 134 : AIR 2003 SC 3290
7. (2020) 8 SCC 531
8. AIR 1967 SC 1274

THE HON'BLE THE CHIEF JUSTICE ALOK ARADHE

AND

THE HON'BLE SHRI JUSTICE ANIL KUMAR JUKANTI

WRIT PETITION Nos.8431 and 11730 of 2014

COMMON ORDER: *(Per the Hon'ble the Chief Justice Alok Aradhe)*

In these petitions, the petitioners have assailed the validity of the action of Andhra Pradesh State Wakf Board in issuing the addendum notification dated 23.08.2007 and in instituting a proceeding under Section 54 of the Wakf Act, 1995. On account of commonality of the issues, the writ petitions were heard analogously and are being decided by this common order. For the facility of reference, facts of W.P.No.8431 of 2014 are being referred to.

(i) Relevant Facts:

2. Facts giving rise to filing of the writ petition in nutshell are that a patta was granted by the Board of Revenue on 07.02.1958 in accordance with the then extant laws in respect of land measuring Ac.4.04 guntas in

Sy.Nos.181 and 182 at Kavadiguda Village, Hyderabad to one Mohammed Gulam Dastagir. The subject matter of W.P.No.8431 of 2014 is the land measuring 14,400 square yards i.e., Acs.2.97 guntas in Sy.Nos.181 and 182/1, situated at Kavadiguda Village, Hyderabad, whereas the subject matter of W.P.No.11730 of 2014 is land measuring 1500 square yards in Sy.Nos.181 and 182/1 situated at Kavadiguda Village, Hyderabad (hereinafter referred to as "the subject property").

(ii) First round of claim by the Wakf Board:

3. The Andhra Pradesh State Wakf Board conducted an enquiry under Section 27 of the Wakf Act, 1954 (hereinafter referred to as "the 1954 Act") and determined *vide* resolution dated 05.10.1958 that the subject property is not Wakf property. After the demise of Mohd. Gulam Dastagir, his legal representatives have executed an agreement of sale in the month of December, 1963 in favour of Smt. D.S.Laxmi and Smt. G.Mohini Kumari. Thereafter, on 03.08.1964, the legal heirs of late Mohd. Gulam Dastagir have executed a sale deed in respect of

land measuring 14,400 square yards (Acs.2.97 guntas) of Sy.Nos.181 and 182 at Kavadiguda, Hyderabad, in favour of Smt. D.S.Laxmi and Smt. G.Mohini Kumari.

(iii) Second round of claim by the Wakf Board:

4. Thereafter, one Mr.Abdul Gafoor had instituted a civil suit, namely, O.S.No.2391 of 1964 on 29.06.1964 on the file of I Additional Chief Judge, City Civil Court, Hyderabad on the ground that the subject property was a Wakf property endowed through an alleged Muntakhab dated 21 Khurdad 1355 Fasli i.e., 1945. The trial Court *vide* order dated 31.08.1965 returned the plaint on the ground of deficit court fee and lack of pecuniary jurisdiction. Against the aforesaid order, a revision petition, namely, C.R.P.No.2097 of 1965 was preferred before the Andhra Pradesh High Court, which was dismissed.

(iv) Third round of claim by the Wakf Board:

5. Thereafter, the Wakf Board issued a show cause notice dated 11.08.1966 to Smt. D.S.Laxmi and Smt. G.Mohini Kumari claiming the subject property to be the Wakf property and proposed an enquiry to be conducted in

that regard. The said show cause notice was challenged by Smt. D.S.Laxmi and Smt. G.Mohini Kumari in a writ petition, namely, W.P.No.1772 of 1966 before the Andhra Pradesh High Court. During the pendency of the writ petition, the writ petitioners namely, Smt. D.S.Laxmi and Smt. G.Mohini Kumari transferred the subject property in favour of one Krishna Cold Drinks Private Limited. The Andhra Pradesh High Court by an order dated 05.09.1968 quashed the proceedings initiated by the Andhra Pradesh Wakf Board on the ground that once a determination under Section 27 of the 1954 Act has already been made that the subject property is not a Wakf property, it is not permissible for the Andhra Pradesh Wakf Board to re-examine the issue again.

6. Sri Krishna Bottlers Private Limited filed a declaration before the Special Officer under the Urban Land Ceiling Act, 1976 seeking exemption from the provisions of the aforesaid Act. This aforesaid exemption was granted *vide* G.O.Ms.No.888, dated 22.10.1981.

7. The Wakf Board published a Gazette Notification in A.P. Gazette at Sl.No.1530 wherein a property by description of "Mosque Sultan with Graveyard and land in Sy.No.82/2 at Hyderabad City, Ward No.1, Block 3, Kavadiguda was included as Wakf property. On 16.09.1984, the Government of Andhra Pradesh accorded permission to Sri Krishna Bottlers Private Limited to convert the use of land from heavy industrial use to commercial use for the purpose of running a hotel. Sometime in the year 1990, the Municipal Corporation, Hyderabad, granted permission to construct hotel on the subject property.

(v) Fourth round of claim by the Wakf Board:

8. Thereafter, the Wakf Board issued a notice dated 11.06.1998 under Section 54(1) of the Wakf Act, 1995 (hereinafter referred to as "the 1995 Act") on the ground that the petitioners are encroachers on the Wakf property. The petitioners thereupon submitted a reply on 24.07.1998 to the notice issued them. After receipt of the reply, no further steps were initiated by the Wakf Board.

(vi) Fifth round of claim by the Wakf Board:

9. After a lapse of seven years, another notice dated 01.02.2005 under Section 54(1) of the 1995 Act was issued to the petitioners by the Wakf Board. The petitioners thereupon submitted a detailed representation on 09.03.2005 in which a specific stand was taken that the subject property is not a wakf property and the Wakf Board has also appraised that continuous and deliberate initiation of the proceeding as regards the subject property amounts to contempt of court.

10. After a period of 24 years from the date of publication of the Gazette notification dated 12.07.1984 under the 1995 Act, in which "Mosque Sultan with Graveyard and land in Sy.No.182/2" was mentioned, an addendum to the Gazette Notification was issued on 23.08.2007 by which the Gazette Notification dated 12.07.1984 was amended to read as "Masjid Bagh Kavadiguda, Hyderabad, Old Correspondent No.140 – New Sy.No.181, with extent Ac.1.24 gts and Sy.No.182 with extent Ac.2.20 gts, total Ac.4.04 gts"

11. On 21.01.2014, petitioner No.2 learnt from a newspaper article published in English daily 'The Hindu' in which it was reported that Wakf Board is contemplating action against petitioner No.1 for encroachment of Wakf property. Thereupon, on 22.01.2014, the petitioners immediately sent a communication to the Special Officer of the Wakf Board asserting that no action can be initiated in view of the previous adjudications made by the Courts from time to time.

12. Thereafter, the Wakf Board initiated a proceeding on 04.02.2014, namely, O.S.No.13 of 2014 before the Andhra Pradesh State Wakf Tribunal under Section 54 of the 1995 Act praying for eviction of petitioner No.1 from the subject property. The petitioners were asked to appear before the Wakf Tribunal on 21.03.2014. The petitioners thereupon have filed the instant writ petition in which challenge has been made to the action of the Wakf Board in issuing the addendum notification dated 23.08.2007 and in instituting a proceeding under Section 54 of the 1995 Act. A Bench of this Court by an interim order dated 20.03.2014 directed

the Wakf Tribunal not to pass any adverse order against the petitioners during the pendency of the writ petition.

(vii) Events after filing of the writ petition:

13. During the pendency of the writ petition, a company petition was filed against petitioner No.1 by Asset Reconstruction (India) Limited under Section 7 of the Insolvency and Bankruptcy Code, 2016 before the National Company Law Tribunal, Hyderabad Bench. The aforesaid petition was admitted on 12.03.2018 and Corporate Insolvency Resolution process was initiated. M/s. Anirudh Agro Farms Limited (hereinafter referred to as "Farms Limited") also participated in CIRP process and submitted a resolution plan on 10.11.2022. The Farms Limited was declared as Successful Resolution Applicant and a letter of intent was issued in its favour. The resolution professional therefore approached the National Company Law Tribunal seeking approval of the resolution plan submitted by the Farms Limited, which was dismissed by an order dated 09.06.2023. The said order was assailed by Farms Limited in an appeal before the National Company Law Appellate

Tribunal, Chennai. The National Company Law Appellate Tribunal *vide* order dated 06.10.2023 set aside the order passed by the National Company Law Tribunal and approved the resolution plan submitted by Farms Limited. The Farms Limited made payments to the creditors and the resolution plan was duly implemented on 10.10.2023. On 12.10.2023, a new Board was constituted to manage the affairs of the petitioner's company and Mr. K.Ravinder Reddy was appointed as Managing Director-cum-CEO of the company.

(viii) Submissions of the petitioners:

14. Learned Senior Counsel for the petitioners in W.P.No.8431 of 2014 submitted that petitioner No.1 is operating, Marriot, a five star hotel on the subject property and on multiple occasions the claims of the Wakf Board with regard to ownership of the subject property had been negatived by various forums such as Wakf Board, including this Court. It is further contended that successive actions of the Wakf Board in initiating the proceedings contrary to settled adjudication are barred on

the principles of *res judicata*. It is also contended that once in an enquiry under Section 27 of the 1954 Act, the Wakf Board itself had resolved that the subject property is not a Wakf property, the Wakf Board cannot repeatedly initiate subsequent actions to assert that the subject property is a Wakf property. It is urged that it is not open for the Wakf Board to issue addendum notification after an inordinate delay of 24 years and in fact, the addendum notification is not an addendum notification but is a *de novo* notification. It is further submitted that the procedure prescribed under the 1995 Act for issuance of addendum notification has not been followed. In support of the aforesaid submissions, reliance has been placed on decisions of the Supreme Court in **Board of Muslim Wakfs, Rajasthan vs. Radha Kishan**[1], **Punjab Wakf Board vs. Gram Panchayat**[2], **T.Kalimurthi vs. Five Gori Thaikal Wakf**[3], **State of Andhra Pradesh (now the State of Telangana) v. A.P.**

[1] (1979) 2 SCC 468
[2] (2000) 2 SCC 121
[3] (2008) 9 SCC 306

State Wakf Board[4] and **Munawar Sultana v. Gosula Ramulu**[5].

(ix) Submissions of the respondent No.1:

15. Learned Senior Counsel for respondent No.1 contended that the Wakf Board has initiated a proceeding under Section 54 of the 1995 Act and had issued a notice to the petitioners. It is further submitted that Wakf Board has filed a suit, namely O.S.No.13 of 2014 under Section 54(3) of the 1995 Act and the burden is on the Wakf Board to adduce evidence to prove that the subject property is a Wakf property. It is also submitted that the issue whether the subject property is a Wakf property or not has to be adjudicated by the Wakf Tribunal. It is argued that the petitioners shall get the opportunity before the Wakf Tribunal and in case an adverse order is passed against them, they have a statutory remedy of revision under Section 83(9) of the 1995 Act. It is also contended that once a statutory remedy is available to the petitioners, the petitioners cannot question the initiation of the

[4] 2022 SCC Online SC 159
[5] 2023 SCC Online TS 3820

proceedings by the Wakf Board in this writ petition. It is further contended that a writ of prohibition would be issued if there is an inherent lack of jurisdiction. It is also contended that the 1995 Act permits the filing of suit. In support of the aforesaid submissions, reliance has been placed on decision of the Supreme Court in **Thirumala Tirupati Devasthanams v. Thallapaka Ananthacharyulu**[6].

16. It is argued that the requirement for issue of prohibition in the facts and circumstances of the case have not been fulfilled and in case this Court decides the issue raised by the petitioners, the parties would lose of statutory remedy prescribed to them under Section 83(9) of the 1995 Act.

(x) Submissions of the respondent No.2:

17. Learned Senior Counsel for respondent No.2 submitted that the petitioners in substance in the instant writ petition are seeking a perpetual injunction and in view of the mandate contained in Section 41 of the Specific Relief Act, 1963, such a relief cannot be granted by way of

[6] (2003) 8 SCC 134 : AIR 2003 SC 3290

a writ petition. It is contended that in respect of the subject matter of the proceeding pending before the Wakf Tribunal under Section 54 of the 1995 Act, a writ petition has been filed. It is argued that the Wakf Tribunal is competent to decide the issue whether the property in question is a Wakf property, as it is deemed to be a civil court in view of the legal fiction created by Section 83(5) of the 1995 Act. It is also contended that the petitioners ought to have filed a petition under Order VII Rule 11 of the Code of Civil Procedure, 1908. In support of the aforesaid submission, reliance has been placed on decision of Supreme Court in **Essar Steel India Ltd. Committee of Creditors vs. Satish Kumar Gupta**[7].

(xi) Rejoinder submissions of the petitioners:

18. By way of rejoinder, learned Senior Counsel for the petitioners has pointed out that Section 40 of the 1995 Act corresponds to Section 27 of the 1954 Act. It is submitted that Section 54 of the 1995 Act is designed for the purposes other than the one mentioned in Section 40 of

[7] (2020) 8 SCC 531

the 1995 Act. It is further submitted that the power under Section 54 of the 1995 Act cannot be exercised in respect of a matter which is prohibited by Section 40 of the 1995 Act. It is also submitted that the prayer in this writ petition is not to stall the suit but the petitioners have assailed the authority of the Wakf Board itself to institute the proceeding.

(xii) Analysis:

19. We have considered the rival submissions made by both the parties. At the outset, it is apposite to take note of the maxim "***boni judicis est lites dirimere, ne lis ex lite oritur, et interest reipulicate ut sint fines litium***" which casts a duty upon the Court to bring litigation to an end or to at least ensure that if possible no further litigation arises from the cases pending before the Court accordance with law, is applicable with greater emphasis where the statute attaches finality to a decision. Bearing in mind the aforesaid salutary principle, we may take note of the provisions of the 1954 Act.

20. The 1954 Act was enacted to provide for better administration and supervision of wakfs. Section 5(2) of the 1954 Act provided that after a property is notified to be a wakf property, a determination has to be made by a civil court, whenever any dispute arises after the notification is published by the Wakf Board as to whether a public law property specified as wakf property in a list published, is a wakf property or not. Section 6 provides that civil court shall not entertain a suit after expiry of one year after publication of list by the Wakf Board. Section 27 of the 1954 Act deals with decision if a property is a wakf property. Section 27 empowers the Board to decide whether any property is a wakf property or not. Section 27, which is relevant for the purpose of controversy involved in these petitions, is extracted below for the facility of reference:

> "**27. Decision if a property is wakf property:** (1) The Board may itself collect information regarding any property which it has reason to believe to be wakf property and if any question arises whether a particular property is wakf property or not or whether a wakf is a Sunni wakf or a Shia wakf, it may, after making such inquiry as it may deem fit, decide the question.

(2) The decision of the Board on any question under sub-section (1) shall, unless revoked or modified by a civil court of competent jurisdiction, be final."

Thus, the Wakf Board may itself collect information regarding any property in the manner provided under Section 27 of the 1954 Act and decide whether a particular property is a wakf property or not and the said decision is final, unless it is revoked or modified by a civil court. The Scheme under Section 27(1) of the 1954 Act postulates an enquiry and a quasi-judicial duty has been cast on the Board.

21. In the instant case, the Wakf Board conducted an enquiry under Section 27 of the 1954 Act and determined vide resolution dated 05.10.1958 that the subject property is not a wakf property. The aforesaid resolution has been referred to in the order dated 05.09.1968 passed in W.P.No.1772 of 1966 by Andhra Pradesh High Court. Thereafter, with the consent of the Board one Mr. Abdul Gafoor filed a suit bearing O.S.No.2391 of 1964 before I Additional Chief Judge, City Civil Court, Hyderabad on the ground that the subject property is a wakf property

endowed through an alleged Muntakhab dated 21 Khurdad, 1355 Fasli i.e., 1945. The trial court vide judgment and decree dated 31.08.1965 returned the plaint for presentation before the competent court for lack of pecuniary jurisdiction as well as non-payment of requisite court fee.

22. The said judgment was assailed in a revision petition vide C.R.P.No.2097 of 1965 which was dismissed. Thereafter, the Wakf Board issued a show cause notice dated 11.08.1966 to Smt. D.S.Laxmi and Smt. G.Mohini Kumari on the ground that the subject property is a wakf property. The said show cause notice was challenged in a writ petition, namely W.P.No.1772 of 1996 before the Andhra Pradesh High Court. The Andhra Pradesh High Court by an order dated 05.09.1968 held that once determination has been held under Section 27 of the 1954 Act that subject property is not a wakf property, it would not be permissible for the Wakf Board to examine the issue again. Accordingly, a writ of prohibition was issued. The relevant extract of the order reads as under:

> "The Section is peremptory and once the Board made inquiries and gave a decision, it is final and is only subject to the decision of the civil court. No provision was brought to my notice which authorizes the Board to revise its earlier order. Whatever may be the reason for the review, when the power of review is not there, the Board or in its place the Administrator has no jurisdiction to review the order; and consequently, the Administrator cannot make any fresh enquiry. The writ petition is, therefore, allowed and a writ of prohibition is hereby issued directing the respondent not to proceed with the inquiry in pursuance of the notice given to the petitioner on 11.08.1966. The order of the respondent is also quashed. In the circumstances, however, I make no order as to costs."

23. Thereafter, the Wakf Board once again issued a notice under Section 54(1) of the 1995 Act on the ground that the petitioners have encroached the wakf property. The petitioners submitted a reply to the notice dated 30.06.1998 in which the claim of the Wakf Board that it is a wakf property was denied. However, no further action in the matter for seven years was taken. After seven years, another notice dated 01.02.2005 was issued under Section 54(1) of the 1995 Act on the ground that subject land is a wakf property. The petitioner No.1 submitted a detailed representation on 09.03.2005. Thereafter, on 04.02.2014, the Wakf Board instituted a proceeding under Section 54 of

the 1995 Act seeking eviction of the petitioners from the subject property.

24. Thus, it is evident that successive attempts had been made on behalf of the Wakf Board to claim the subject property as wakf property, despite determination of the question by the Wakf Board itself as long back as on 05.10.1958 itself under Section 27 of the 1954 Act that subject property is not a wakf property. Section 27(2) of the 1954 Act contains a mandate that decision of the Board under Section 27(1) of the Act is final unless it is revoked or modified by a civil court of competent jurisdiction. Admittedly, the resolution dated 05.10.1958 has neither been modified nor revoked by a civil court of competent jurisdiction. The aforesaid determination made under Section 27(1) of the 1954 Act, which has not been denied on behalf of the respondents, binds the Wakf Board.

25. The principles governing the exercise of power to issue a writ of prohibition were dealt with by the Supreme

Court in S.Govinda Menon vs. the Union of India[8] and in paragraph 5, it was held as under:

> "**5.** The jurisdiction for grant of a writ of prohibition is primarily supervisory and the object of that writ is to restrain courts or inferior tribunals from exercising a jurisdiction which they do not possess at all or else to prevent them from exceeding the limits of their jurisdiction. In other words, the object is to confine courts or tribunals of inferior or limited jurisdiction within their bounds. It is well settled that the writ of prohibition lies not only for excess of jurisdiction or for absence of jurisdiction but the writ also lies in a case of departure from the rules of natural justice (See *Halsbury's Laws of England*, 3rd Edn., Vol. 11, p. 114). It was held for instance by the Court of Appeal in *King* v. *North* [1927 (1) KB 491] that as the order of the Judge of the Consistory Court of July 24, 1925 was made without giving the vicar an opportunity of being heard in his defence, the order was made in violation of the principles of natural justice and was therefore an order made without jurisdiction and the writ of prohibition ought to issue. But the writ does not lie to correct the course, practice or procedure of an inferior tribunal, or a wrong decision on the merits of the proceedings. It is also well established that a writ of prohibition cannot be issued to a court or an inferior tribunal for an error of law unless the error makes it go outside its jurisdiction (See *Regina* v. *Comptroller General of Patents and Design* [1953 (2) WLR 760, 765]) and *Parisienne Basket Shoes Proprietary Ltd.* v. *Whyte* [59 CLR 369]. A clear distinction must therefore be maintained between want of jurisdiction and the manner in which it is exercised. If there is want of jurisdiction then the matter is *coram non judice* and a writ of prohibition will lie to the court or interior

[8] AIR 1967 SC 1274

tribunal forbidding it to continue proceedings therein in excess of its jurisdiction."

26. Thereafter, in **Thirumala Tirupati Devasthanams** (supra), the aforesaid principles were reiterated in paragraph 14 of the aforesaid judgment. The relevant extract of the said paragraph reads as under:

"14. On the basis of the authorities it is clear that the Supreme Court and the High Courts have power to issue writs, including a writ of prohibition. A writ of prohibition is normally issued only when the inferior court or tribunal (*a*) proceeds to act without or in excess of jurisdiction, (*b*) proceeds to act in violation of the rules of natural justice, (*c*) proceeds to act under law which is itself ultra vires or unconstitutional, or (*d*) proceeds to act in contravention of fundamental rights. The principles, which govern the exercise of such power, must be strictly observed. A writ of prohibition must be issued only in rarest of rare cases. Judicial discipline of the highest order has to be exercised whilst issuing such writs. It must be remembered that the writ jurisdiction is original jurisdiction distinct from appellate jurisdiction. An appeal cannot be allowed to be disguised in the form of a writ. In other words, this power cannot be allowed to be used "as a cloak of an appeal in disguise". Lax use of such a power would impair the dignity and integrity of the subordinate court and could also lead to chaotic consequences. It would undermine the confidence of the subordinate court".

27. On the touchstone of the aforesaid well settled legal principles, in the facts of the instant case, firstly in view of

determination of the issue whether or not the subject property is wakf property under Section 27 of the 1954 Act, having attained finality which even otherwise binds the Wakf Board and secondly, in view of writ of prohibition dated 05.09.1968 in W.P.No.1772 of 1966 by the Andhra Pradesh High Court, the initiation of the proceeding by the Wakf Board is in excess of jurisdiction and the requirement of issue of writ of prohibition is fulfilled.

28. At this stage, we may advert to the issue of validity of the action of the Wakf Board in issuing the errata notification after a period of twenty four years. The scope and meaning of the expression "errata"/"corrigendum" was considered by the Supreme Court in **State of Andhra Pradesh (now the State of Telangana) vs. A.P.State Wakf Board** (supra) and in paragraphs 150 and 151, it was held as under:

> "**150.** We would need to examine as to what is scope and meaning of the word "errata". "Errata" is a term of French origin which means a thing that should be corrected. It means a mistake in printing or writing. Reference may be made to a judgment reported as *Parvati Devi* v. *State of U.P ((2007) 6 All LJ 50)*. It was held as under:—

"20. The word "Erratum (French) means a mistake in printing or writing; a note drawing attention to such a mistake. A list of mistakes added at the end of a book.

21. The word "Errata" is a word of French origin and means 'a thing that should be corrected.' After a book has been printed, it often happens that certain mistakes are found to have been overlooked. In later editions, it is usual to insert, a list of such mistakes and to point out the necessary corrections. These are called 'corrigenda'.

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23. In *Judicial Dictionary* by Justice L.P. Singh and Majumdar, 2nd Edition, page 552, while quoting the following passage in *Assam Rajyik Udyog Karmi Sangha* v. *State of Assam*, 1996 Gau LR 236, (at page 241), the word "*corrigendum*" has been defined as follows:—

> "The dictionary meaning of the word "corrigendum" means things to be correct. It means there must be an error and there is a necessity to amend and rectify it. In the garb of corrigendum, a rule cannot be altered and or changed, but that is what appears to have been done in the instant case. In order to alter or modify a rule the same procedure adopted in making of the rule have to be gone through."

24. The meaning and application of the word "corrigendum" has been considered by the Courts time and again. In *Commissioner of Sales Tax, U.P.* v. *Dunlop India Ltd.*, (1994) 92 STC 571, this Court held that corrigendum is issued to correct a mistake in the notification, therefore, would relate back to the date of issuance of the original notification.

25. In *Piara Singh* v. *State of Punjab*, (2000) 5 SCC 765 : AIR 2000 SC 2352, the Hon'ble Supreme Court held that there is no bar on issuing the corrigendum or 'more corrigenda' for correcting the arithmetical error.

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27. In view of the above, the legal position can be summarised that a corrigendum can be issued only to correct a typographical error or omission therein. However, it is meant only to correct typographical/arithmetical mistake. It cannot have the effect of law nor it can take away the vested right of a person nor it can have the effect of nullifying the rights of persons conferred by the law".

151. We find that in the facts of the present case, the Errata notification is nothing but a fresh notification altogether. Errata is a correction of a mistake. Hence, only arithmetical and clerical mistakes could be corrected and the scope of the notification could not be enlarged by virtue of an errata notification. As against 5506 sq. yards of land notified as wakf property in the year 1989, large area of 1654 acres and 32 guntas of land could not be included under the guise of an errata notification as it is not a case of clerical or arithmetical mistake but inclusion of large area which could not be done without conducting a proper Inquiry either under Section 32(2)(n) read with Section 40 or on the basis of survey report which was called by the State Government by appointing a Survey Commissioner."

29. It is well settled in law that when a statute does not provide for time limit for doing an act, such an act has to be done within a reasonable time and what would be the

reasonable time has to be decided in the facts and circumstances of the act (see **Meher Rusi Dalal vs. Union of India** [(2004) 7 SCC 362]; **P.K.Sreekantan vs. P.Sreekumaran Nair** [(2006) 13 SCC 574] and **K.B.Nagur vs. Union of India** [(2012) 4 SCC 483]). The Supreme Court in **State of Andhra Pradesh vs. A.P.State Wakf Board** (supra) also disapproved the action of the Wakf Board in issuing the errata after seventeen years.

30. In the instant case, the gazette notification under the provisions of the 1995 Act was issued on 12.07.1984, wherein the description of the property reads as under:

> "Mosque Sultan with Graveyard and Land in Survey No.182/2"

31. Thereafter, an addendum to the gazette notification dated 12.07.1984 was issued on 23.08.2007 i.e., after a period of 24 years, by which notification dated 12.07.1984 was amended to read as follows:

> "Masjid Bagh Kawadiguda, Hyderabad, Old Correspondent No.140-New Sy.No.181, with extent Acs.1.24 guntas, and Sy.No.182 with extent Ac.2.20 guntas, total acres 4.04 guntas".

32. Thus, on conjoint reading of the notification dated 12.07.1984 and addendum dated 23.08.2007, it is evident that it is not in the nature of clarification of the previous notification but rather a substitution of the original notification which is not permissible in law after a long lapse of 24 years.

33. So far as submissions on behalf of the respondents are concerned, suffice it to say that the petitioners cannot be allowed to suffer legal injury merely because they have a statutory remedy available under the 1995 Act, especially in a case where the initiation of proceeding itself is vitiated in law. For the reasons assigned supra, we have already held that the requirement of issue of prohibition in obtaining factual matrix is fulfilled. Therefore, the decision of the Supreme Court in **Thirumala Tirupati Devasthanams** (supra) is of no assistance to the respondents.

(xiii) Conclusion:

34. In view of the preceding analysis, addendum notification dated 23.08.2007 published by the Wakf Board in relation to the property of the petitioners is hereby quashed and a writ of prohibition is issued directing the respondents not to proceed further in O.S.No.13 of 2014 on the file of the Wakf Tribunal and a proceeding under Section 54 of the 1995 Act.

In the result, the writ petitions are accordingly allowed.

Miscellaneous petitions, if any pending, shall stand closed. There shall be no order as to costs.

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ALOK ARADHE, CJ

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ANIL KUMAR JUKANTI

25.04.2024

Note: LR copy be marked.
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