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W.P.A No. 6653 of 2020

IA No: CAN/1/2020(Old No. CAN 5505 of 2020)

Sri Subhrajit Ghosh and others
Versus
The State of West Bengal and others

Mr. Amalesh Ray,
Ms. Mousumi Bhowal,
Mr. Deborshi Dhar

...for the petitioners.

Mr. Subir Kumar Saha,
Mr. Sayan Sinha

... for the State.

Mr. Galib

... for the Auqaf Board

Considering the urgency pleaded by the petitioner in CAN 5505 of 2020, the instant writ petition is taken up for hearing via video conference.

Accordingly, the application being CAN 5505 of 2020 is disposed of.

R. S. Plot No. 371, R. S. Khatian No. 3509 corresponding to C. S. Khatian No. 2062, C. S. Plot No. 99, District-Jalpaiguri, Mouza-Kharia is being constructed upon by the petitioner which they claimed to have lawfully purchased.

They are aggrieved by a notice issued by the Officer-in-Charge, Kotwali Police Station, Jalpaiguri dated 11th July, 2020 asking construction to be stopped.

Mr. Galib, learned advocate appearing for the Auqaf Board, submits that the said property has been registered as Auqaf property since 1943. An appropriate entry exists according to him in the Auqaf Register concerned.

Upon receiving a complaint from the Mutuwali concerned, the Auqaf Board, at the instance of the C.E.O. registered a complaint with the District Magistrate, Jalpaiguri, who correspondingly through the S. P., Jalpaiguri directed stoppage of construction.

The only issue that remains for decision is as to whether the property-in-question remains a Auqaf property or whether its nature and character has since changed.

In those circumstances, this Court directs the C. E. O. of the Auqaf Board, the petitioner or the Mutuwali to initiate appropriate proceedings under the Auqaf Act, 1995 before the Auqaf Tribunal for a suitable decision as regards the nature and character of the property-in-question.

It is made clear that the order of stay of construction shall remain operative only for a period of one month from date and shall abide by any order that may be made by the Auqaf Tribunal under any proceeding that may be initiated before it.

With the aforesaid observation, the instant writ petition is disposed of.

All parties are to act on a server copy of this order on the usual undertakings.

(Rajasekhar Mantha, J.)