

22.07.2022
Court No.13
Item No.46
AP

WPA 2665 of 2022
With
CAN 1 of 2022
With
CAN 2 of 2022
With
CAN 3 of 2022

Jb. Md. Ibrahim
Vs.
The State of West Bengal and Ors.

Mr. Srijib Chakraborty
Mr. Syed Nurul Arefin

... For the Petitioner.

Mr. Arnab Mandal

... For the Respondent Nos.3 & 4.

Mr. Surajit Nath Mitra, Senior Advocate
Ms. Ankita Chaudhury

... For the applicant in CAN 1 of 2022.

Mr. Rajarshi Dutta
Mr. Sarbojit Mukherjee
Mr. Sattik Raut

... For the applicant in
CAN 2 of 2022 and CAN 3 of 2022.

Mr. Subhabrata Datta
Mr. Sanatan Panja

... For the State.

Re.: CAN 1 of 2022

Recall and/or modification of the order dated 19th April 2022 is sought by the petitioner who claim to be the legal heirs of the respondent No.14, who is the actual owner of the property in question. The property in question has been claimed as wakf property by the writ petitioner.

The applicants in CAN 1, 2 and 3 of 2022 claim that they had no notice of the writ petition.

It is submitted that the construction on the property in question was being carried on by the promoters being respondent Nos.19 to 21. It is submitted that the claim made in the original writ petition that the property in question is a wakf property is untrue and incorrect.

It is submitted that the construction of the property was going on since 2018 against a sanction plan. The plan came to be modified lastly in 2021. Portions of the construction have already been occupied by three parties.

In that view of the matter and the extreme urgency expressed by both the parties, this Court is of the view that the applicants should apply before the Wakf Board and/or Authorities under the Wakf Act 1995, within seven days from date in respect of their grievances against the order of the Wakf Board .

The jurisdiction of the Wakf Board and the applicability of the Act in respect of the subject property has also been questioned by the applicants. All these questions shall be considered by the appropriate authorities in the applications that may be made by the parties as indicated above.

The order of restraint on construction shall continue only for a period of one month from date and abide by any order that may be passed by the Wakf Board/ Tribunal.

The Officer-in-Charge, Kotwalli Police Station shall stay his hands in respect of the property and act in terms of the orders of Wakf Board/Tribunal as may be made in future.

It is made absolutely clear that this Court has not in any way entered into the merits of the rival claims made by the parties in respect of the property in question. The issue of jurisdiction and authority of the Wakf Board and Tribunal in respect of the wakf property in question is also left open.

With the aforesaid observations, CAN 1 of 2022 is disposed of.

Re.: CAN 2 of 2022

Recall and/or modification of the order dated 19th April 2022 is sought by the petitioner who claim to be the legal heirs of the respondent No.14, who is the actual owner of the property in question. The property in question has been claimed as wakf property by the writ petitioner.

The applicants in CAN 1, 2 and 3 of 2022 claim that they had no notice of the writ petition.

It is submitted that the construction on the property in question was being carried on by the promoters being respondent Nos.19 to 21. It is submitted that the claim made in the original writ petition that the property in question is a wakf property is untrue and incorrect.

It is submitted that the construction of the property was going on since 2018 against a sanction plan. The plan came to be modified lastly in 2021. Portions of the construction have already been occupied by three parties.

In that view of the matter and the extreme urgency expressed by both the parties, this Court is of the view that the applicants should apply before the Wakf Board and/or Authorities under the Wakf Act 1995, within seven days from date in respect of their grievances against the order of the Wakf Board .

The jurisdiction of the Wakf Board and the applicability of the Act in respect of the subject property has also been questioned by the applicants. All these questions shall be considered by the appropriate authorities in the applications that may be made by the parties as indicated above.

The order of restraint on construction shall continue only for a period of one month from date and abide by any order that may be passed by the Wakf Board/ Tribunal.

The Officer-in-Charge, Kotwalli Police Station shall stay his hands in respect of the property and act in terms of the orders of Wakf Board/Tribunal as may be made in future.

It is made absolutely clear that this Court has not in any way entered into the merits of the rival

claims made by the parties in respect of the property in question. The issue of jurisdiction and authority of the Wakf Board and Tribunal in respect of the wakf property in question is also left open.

With the aforesaid observations, CAN 1 of 2022 is disposed of.

Re.: CAN 3 of 2022

Recall and/or modification of the order dated 19th April 2022 is sought by the petitioner who claim to be the legal heirs of the respondent No.14, who is the actual owner of the property in question. The property in question has been claimed as wakf property by the writ petitioner.

The applicants in CAN 1, 2 and 3 of 2022 claim that they had no notice of the writ petition.

It is submitted that the construction on the property in question was being carried on by the promoters being respondent Nos.19 to 21. It is submitted that the claim made in the original writ petition that the property in question is a wakf property is untrue and incorrect.

It is submitted that the construction of the property was going on since 2018 against a sanction plan. The plan came to be modified lastly in 2021. Portions of the construction have already been occupied by three parties.

In that view of the matter and the extreme urgency expressed by both the parties, this Court is of the view that the applicants should apply before the Wakf Board and/or Authorities under the Wakf Act 1995, within seven days from date in respect of their grievances against the order of the Wakf Board .

The jurisdiction of the Wakf Board and the applicability of the Act in respect of the subject property has also been questioned by the applicants. All these questions shall be considered by the appropriate authorities in the applications that may be made by the parties as indicated above.

The order of restraint on construction shall continue only for a period of one month from date and abide by any order that may be passed by the Wakf Board/ Tribunal.

The Officer-in-Charge, Kotwalli Police Station shall stay his hands in respect of the property and act in terms of the orders of Wakf Board/Tribunal as may be made in future.

It is made absolutely clear that this Court has not in any way entered into the merits of the rival claims made by the parties in respect of the property in question. The issue of jurisdiction and authority of the Wakf Board and Tribunal in respect of the wakf property in question is also left open.

With the aforesaid observations, CAN 1 of 2022
is disposed of.

(Rajasekhar Mantha, J.)