

01.07.2022
Sl. No.92
srm

W.P.A. No. 10952 of 2022

Sk. Samir Ali

Versus

The State of West Bengal & Ors.

Mr. Amitavha Ghosh,
Ms. Nabanita Chatterjee,
Ms. Tanwishree Mukherjee

...for the Petitioner.

Sk. Md. Galib,
Ms. Subhra Nag

...for the State-respondents.

Mr. Sundar Gopal Bhattacharyya

...for the Respondent Nos.2 and 3.

Affidavit-of-service is taken on record.

The petitioner is aggrieved by the notice served by the police authorities upon the petitioner for raising a construction over the land bearing LR Dag Nos.1804 and 1805 under Mouza-Sahachak, Police station-Daspur, District-Paschim Medinipur. The said notice was served by the ASI, Daspur Police Station upon the petitioner on May 8, 2022. The petitioner submits that the petitioner has a valid permission from the local authority to raise such construction.

On the other hand, the learned Advocate for the Board of Auqaf submits that the property is an Auqaf property since 1937. The said property has been enrolled in the register maintained by

the Board of Auqaf. CS records reveal that the property was recorded in the name of the Board of Auqaf.

Contrary documents have been produced by the petitioner indicating that the name of the petitioner has been recorded in the LR records. It also appears that the land was converted from 'jal' to 'bastu'.

The police authorities have filed a report, from which it appears that on receiving a direction from the Chief Executive Officer, the Board of Auqaf, West Bengal, to stop the unauthorised construction on the Auqaf land, the notice was served. It is submitted by the police authorities that apart from serving the notice no further steps were taken to either harass or threaten the petitioner. The police authorities also asked the petitioner to show the building plan and the permission, etc., but the petitioner refused to disclose the same. The parties were directed to maintain peace and tranquility.

The petitioner prays for a direction to quash the notice served upon the petitioner by the police authorities.

This Court finds that the Board of Auqaf has disputed the title of the petitioner. The remedy of the petitioner is before the learned Wakf Tribunal, for declaration of title and injunction upon the Board of Auqaf from causing any disturbance or from stopping the construction.

The police authorities have acted on the instruction of the Chief Executive Officer of the Board of Auqaf and they have just served the notice to the petitioner. No other overt act on the part of the police authorities has either been alleged or is revealed, in the course of hearing.

The writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)