

19.7.2022
Court No. 19
Item no.148
sn

WPA No.12070 of 2022

Titagarh Jamit Ahle Hadees
Vs.
The State of West Bengal & ors.

Mr. Amlan Biswas
Mr. Amitesh Chakraborty
Md. Ashraffor the petitioner

Mr. Wasim Ahmed
Sk. Md. Masud ..for the State

Mr. Munshi Ashiq Elahi
Md. Sahidullah Mridha ..for the respdts.5-18

The petitioner is a registered trust, who claims to run the mosque as also perform other welfare activities within the premises situated at 105 G.G.C. Road, under Ward No. 18 of the Barrackpore Municipality.

It is alleged that the respondent nos. 5 to 18 have been disturbing the smooth functioning of the trust, and were also preventing the worshippers from offering namaz at the mosque.

The further allegation is that a padlock has been fixed in the site of the mosque by the respondent nos. 5 to 18, with the assistance of the police authorities.

Prayers have been made for an order upon the police authorities to comply with the order of the learned Executive Magistrate dated April 27, 2022. It is further urged that the police authorities must look

into the matter so that the petitioner, the trustees and their family members can peacefully enjoy the mosque, and perform their welfare activities as per the order of the learned Civil Judge (Junior Division) 2nd Court at Barrackpore in Title Suit No. 15 of 2022.

It is alleged by the petitioner that the police authorities have not ensured compliance of the order of the learned Civil Court and have not considered the complaints of the petitioner.

Mr. Munshi, learned advocate for the respondent nos. 5 to 18, submits that the allegation of fixation of padlock by the said respondents with the aid and assistance of the police authorities, is not correct. An order passed by the Hon'ble Division Bench on April 4, 2022 in a public interest litigation, has been produced before this court. It had been recorded that the masjid in question had been opened and the grievance of the petitioner to that extent, had been redressed. The public interest litigation is still pending.

Mr. Munshi further submits that the rights of the petitioner, trustees and family members of the trustees to offer namaj was never disrupted. However, the order of the learned Civil Court does not permit the public at large, to offer their namaj in the said mosque.

Learned advocate for the police authorities submits that the issues as raised in the writ petition were not as simple as they appear to be. There has been a continuous fight between the two religious sects of the Islamic community and there had been an occasions when due to infiltration of huge crowd and altercation between the two sets, law and order problems cropped up. Some police personnel were also injured in the scuffle.

Mr. Ahmed further submits that the District Magistrate had also passed an order, inter alia, holding that the residential premises within the said plot of land, could not be used as a mosque for the public.

Having gone into the rival contentions of the parties, this Court is of the view that the prayer of the petitioner to direct the police authorities to facilitate activities of the trust and to help public in the process of offering namaz, cannot be permitted by this court. The order of injunction has been restricted to the rightful possession and enjoyment of the plaintiffs in the suit, but the civil court is silent about the issue of offering namaz by the public.

The civil court had restricted the order of injunction to the plaintiffs in the suit. Any further order as prayed, to allow the public at large to offer

namaz would be contrary to the order of the learned civil court.

Under such circumstances and upon taking into consideration the rival contentions of the parties, this Court is of the view that the masjid may be used by the trustees, members of the trust and their family members. The police authorities shall ensure that the said order of the learned Civil Court is complied with and implemented.

As it is already recorded in the order of the Hon'ble Division Bench that the masjid is open, no further order need be passed in this writ petition with regard to the allegation of fixation of the padlock.

The respondent nos. 5 to 18 are restrained from disturbing the peaceful possession of the plaintiffs in the suit, their family members and other trustees. However, if there is a law and order problem the police authorities are at liberty to take steps.

The defendant nos. 5 to 18 are at liberty to proceed in accordance with law, in the title suit with their grievances. The other contentions of the petitioner, shall be decided in the public interest litigation.

This writ petition is disposed of.

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)