

11.02.2022
Item no. 28
Ct. No.13
Saswata

WPA 14699 of 2021
Janab Mufti Fakhrul Islam Qasmi
Vs.
State of West Bengal & Ors.

Mr. Anirban Majumder
Mr. Somnath De
... for the petitioner

Sk. Md. Galib
Ms. Subhra Nag
... for the State

Mr. Shamit Sanyal
Ms. Shahana Nazmin
... for the board of Auqaf

Mr. Khawaja A. Rahaman
... for respondent nos. 13 & 14

Affidavit of service filed in Court today be kept with the record.

The report of the Officer-in-charge of Ekbalpur Police Station dated 07.12.2021 is kept with the record.

The petitioner claims to be a mutwali appointed by the Auqaf Board for administration of Waqf estate at Ekbalpur, Kolkata. The private respondents are defendants in the suit no. 11 of 2019, now pending before the Waqf Tribunal. By an order dated 27.02.2020 an injunction order has been passed under Order XXXIX Rules 1 and 2 read with Section 151 of the Civil Procedure Code restraining the defendants therein from interfering with the

management of the Waqf estate until disposal of the suit.

The Tribunal thereafter passed orders on several occasions directing the police to implement the order of injunction. It is submitted that the Ekbalpur Police Station has not cooperated in enforcing the above order of injunction.

It is submitted by the counsel for the State that a large of criminal proceedings have been initiated against the petitioner and the private respondents against one another and two charge sheets have been submitted against the private respondents. Six charge-sheets have been filed against the petitioner.

This Court is of the view that civil disputes between the parties are being dealt with by the Waqf Tribunal. The Ekbalpur Police Station shall however ensure strict compliance of the order of the Waqf Tribunal. The private respondents shall not interfere with the administration of the Waqf Tribunal. Any further relief and/or specific orders for implementing the order of injunction may be obtained from the Waqf Tribunal by the parties.

This Court finds from the order of the Tribunal that there is no restraint on the parties from entering into the Mosque in question to offer prayers.

The defendants and the private respondents shall not, however, interfere with or enter into the *yateemkhana* or the Madrasah in the property.

With the aforesaid observations, the writ petition being WPA 14699 of 2021 is, accordingly, disposed of.

Since the respondents have not used any affidavit in opposition, the allegations contained in this writ petition, shall not be deemed to have been admitted by them.

Urgent photostat certified copy of this order, if applied for be given to the parties on priority basis upon completion of requisite formalities.

(Rajasekhar Mantha, J.)