

Sl. No.31
14.09.2022

Court No.24
B.M.

In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side

W.P.A 19732 of 2021

Falauddin Haider
Versus
The State of West Bengal & Ors.

Mr. Md. Nauroz Rahber
Mr. Anjana Mehabub
Mr. Muhammad Jawwad
... for the petitioner
Ms. Sutapa Sanyal
Ms. Susnita Saha
... for the State
Mr. Sk. Md. Galib
Ms. Tanwishree Mukherjee
... for the Board of Auqaf

The petitioner alleges illegal and unauthorised construction at the premises No.1, Kavi Md. Ekbal Road, Police Station-Ekbalpur, Kolkata-700023, Borough-IX under the jurisdiction of the Kolkata Municipal Corporation.

The petitioner submits that the property in question is an waqf property and construction is being made without obtaining any permission either from the Kolkata Municipal Corporation or the Auqaf Board.

The petitioner made several representations before the respondent authorities and complains that none has been taken into consideration till date.

None appears on behalf of either the Kolkata Municipal Corporation or the respondent nos.9, 10 and 11.

Affidavit of service filed in Court is taken on records.

Learned advocate representing the Auqaf Board submits that the property in question is indeed waqf property and no permission has been taken for making construction thereat. Complaint has also been lodged before the Police Station by the Chief Executive Officer of the Board of Auqaf on 5th February, 2019.

As the respondent Corporation is not appearing, the matter cannot be decided conclusively.

The representation of the petitioner is pending consideration till date

The last representation filed by the petitioner on 22nd November, 2021 is a very cryptic one. Accordingly, leave is granted to the petitioner to file fresh representation highlighting the illegalities committed by the private respondents at the time of making construction. If such a representation is filed, the same shall be considered by the respondent no.5 strictly in accordance with law, after giving an opportunity of hearing to all the necessary parties including the petitioner within a period of twelve weeks from the date of receipt of the representation. The said respondent shall pass a reasoned order and communicate the same

to all the necessary parties including the petitioner immediately thereafter.

In the event the aforesaid respondent is of the considered opinion that the construction has been made either in violation of the plan sanctioned or devoid the sanction plan, then necessary steps shall be taken to deal with such unauthorised construction, in accordance with law.

The aforesaid respondent shall restrict the consideration of the representation with regard to unauthorized construction only and not enter into or decide any private dispute of the parties regarding right, title and interest in respect of the aforesaid land.

It is made clear that this Court has not entered into the merits of the claim made by the petitioner and all points are left open to be decided by the aforesaid respondent at the time of consideration of the representation of the petitioner.

The writ petition stands disposed of.

Urgent photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Amrita Sinha, J.)