

09.08.2023
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Sl. No. 07
Ct. No. 12

FMA 657 of 2018
With
CAN 01 of 2017 (Old CAN 3672 of 2017)

Baish Hazari Wakf Estate, Malda & Dakshin Dinajpur &
Ors.
-Versus-
The State of West Bengal & Ors.

Mr. H.S. Chakraborty
.....for the appellants
Mr. Suman Sengupta
Mr. Sanatan Panja
.....for the State

The present appeal is filed by the appellants challenging the order dated 08.03.2017 passed in WP No. 1794(W) of 2016. According to the appellants, the private respondents are interfering with the management of the Wakf Estate and conducting Urush festival.

The learned counsel appearing for the appellants submitted that the dispute between the appellants and respondents were settled by Wakf Tribunal in suit No. 6 of 2012 and entered in favour of the appellants. The appellants gave representation to the police for conducting Urush festival and filed present writ petition.

When the writ petition was taken up for hearing, the learned counsel appearing for the State respondents submitted that the protection was given for conducting Urush festival in the year 2015 and the proceedings

under Sections 116 and 117 of the Code of Criminal Procedure were initiated against the private respondents and filed report to that effect before the learned Single Judge. The learned Single Judge in view of the said report disposed of the said writ petition with the following directions:

“Under such circumstances, I observe that in the event there is any obstruction by the private respondents to the lawful right of the petitioners to manage the wakf estate and hold on Urush festival, it shall be open to the petitioners to approach the concerned tribunal for necessary orders to ensure effective management of the said estate in accordance with law. Lawful direction of the tribunal in that regard shall be duly implemented by the police authorities in accordance with law.

I make it clear that in the event the petitioners approach the tribunal, it shall be open to the tribunal to examine the issue from all angles and pass appropriate order thereon after hearing the affected parties in accordance with law.

Since no affidavit-in-opposition has been called for, the allegations made in the writ application deemed not to have been admitted by the respondents.

With the aforesaid direction, the writ petition is disposed of.”

Against the said order, the present appeal is filed.

Learned counsel appearing for the appellants submitted that as per the provisions of the Police Act, the police authorities are liable to give protection when the right of the appellants is interfered with. The police by their inaction infringing the right of the appellants. From the above materials, it is seen according to the appellants, private respondents were interfering with management of Wakf estate and in conducting Urush

festival peacefully. A report has been filed by the State counsel before the learned Single Judge to the effect that protection was given for conducting Urush festival peacefully in the year 2015. In the report, they also stated the proceedings under Sections 107 and 116(C) of the Criminal Procedure Code had been initiated against the private respondents. Learned Judge had given liberty to the appellants to approach the Wakf Tribunal if any objection is made by private respondents for necessary orders to ensure effective management of the said Estate in accordance with law. The appellants are seeking police protection throughout the year and to appoint a police official in front of Wakf Estate everyday for indefinite period. The appellants are not entitled to such a relief. It is always open to the appellants to approach the police authorities if there is any interference by the private respondents.

In view of the same, there is no reason to interfere with the order of the learned Single Judge.

Accordingly, the appeal fails and dismissed without any order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)