

24.08.2023  
Court No. 19  
Item No.07  
CP

C.O. 928 of 2020

With

IA NO: CAN/8/2023

Mintu Mondal & ors.

Vs.

The Chief Executive Officer, Board of Waqf, West  
Bengal & ors.

Mr. Bhaskar Ghosh

...for the petitioners.

Mr. Nadeem Sulaiman

....for the opposite party no. 1.

This revisional application arises out of an order dated February 20, 2020, by which the learned Waqf Tribunal, West Bengal, refused to pass any interim order of stay of operation of the letter no. 78(2) dated January 7, 2020. By the said letter, the Chief Executive Officer, Board of Waqf, West Bengal directed incorporation of L.R. Plot No. 746 of 664 as wakf property in the record of rights.

The petitioners challenged the said letter by filing O.A. No. 02 of 2020. The contention of the petitioners in the original application was that a prior suit being Suit No. 48 of 2017, had been rejected on the self-same cause of action. The letter no. 78(2) dated January 7, 2020 was a reiteration of the same contentions which were subject matters in the earlier suit and was issued only to circumvent the effect of

dismissal of the suit filed by a third party against the petitioners. The Waqf Board was also a party to the said proceeding. Thus, an interim stay of operation of the letter dated January 7, 2020 was prayed for. It was contended that unless the stay was granted, the petitioners would lose a valuable right to the property which had been in their possession since long.

The learned tribunal held that the tribunal did not have any power to pass an order of injunction under Order 39 Rules 1 and 2 of the Code of Civil Procedure, in an original application. Such injunction could only be passed in a suit.

This court is of the view that till the original application is decided, the state authorities should not act on the basis of the impugned letter, otherwise the same may lead to multiplicity of proceedings. If the letter which is under challenge before the Tribunal is implemented, the situation may become irreversible and may cause irreparable loss and injury.

Moreover, if the petitioners are successful in the original application and the letter is implemented, the petitioners would have to go through another round of litigation for reversal of the actions of the authorities based on the letter impugned before the tribunal.

The letter deals with correction of records of rights by the land authorities, based on a decision of the Board of Wakf that the property in dispute, were wakf property.

Hence, for the ends of justice, this court directs that O.A. No. 02 of 2020 shall be disposed of by the learned tribunal preferably within a period of three months, by giving all the contesting parties adequate opportunity to file their written objection, if not already filed and to contest the proceeding. Till such decision is taken, the letter no. 78(2) dated January 7, 2020, issued by the Chief Executive Officer, Board of Waqf, West Bengal shall not be given any effect.

The revisional application is accordingly disposed of. With the disposal of the revisional application, the connected application, is also disposed of, except the contempt application.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

**(Shampa Sarkar, J.)**