

Item No.14
21.03.2023
Court. No. 19
GB

WPA 6019 of 2023

Atlab Hossain & Anr.
Vs
The State of West Bengal & Ors.

*Ms. Aparajita Mondal,
Mr. Biplab Adak*

...for the Petitioner.

*Mr. Rama Pada Sarkar,
Ms. Debarati Sen Bose*

...for the State.

Mr. Ramij Munsif

...for the Respondent Nos.9 to 11.

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

The petitioners allege that the respondent nos.9 to 11 have forcefully entered into a portion of the property of the school authority situated on Plot Nos.1151, 1152 and 1153 of Mouza-Jayer. According to the petitioners, the lands belong to Jayer Prathamik Vidyalaya and the respondent nos.9 to 11 have forcefully encroached into the property and started raising a construction.

It is alleged that one Malik Kazi Samsur has been wrongly recorded in the record of rights, in respect of the Dag No.1151. Further submission is that a suit for declaration and injunction filed before the learned Civil Judge (Junior Division), 2nd Court at Hooghly being Title Suit No.138 of 2005, at the instance of the respondent nos.9 to 11 has also been dismissed.

The learned advocate for the respondent nos.9 to 11 submits that they are the mutwalis and all the plots are wakf

property. That Plot Nos.1152 and 1153 were gifted to the school authorities, but Plot No.1151 continues to be used as wakf property. It is further submitted that only a temporary tin fencing has been fixed around the wakf property, for protection. Such fencing does not require any permission from the gram panchayat. Further submission is that the suit was dismissed for lack of jurisdiction as the Wakf Tribunal was the competent forum to decide any dispute relating to wakf property.

Under such circumstances, the writ petition is disposed of, granting liberty to the petitioner to approach the Wakf Board with his grievances. If such approach is made, the same shall be disposed of in accordance with law upon hearing the parties. A reasoned order shall be passed and communicated to all concerned.

This Court has not gone into the merits of the case, but has only disposed of the writ petition without any relief on the ground that the property in question is alleged to be a wakf property.

The entire exercise shall be completed within a period of eight weeks from date of communication of this order.

Accordingly, the writ petition is disposed of.

However, there will be 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.)