

03 10.08.2023
RP Ct. No. 01
AN

MAT 684 of 2023
with
IA No. CAN 1 of 2023
CAN 2 of 2023

Sk. Ansar Uddin Mia & Ors.
Vs.

Taj Khan Masnad-E-Ala (R) Pir Saheb, represented by
Mutawalli (Sebait Khadim) and for self Sk. Najrul Islam Mia
& Ors.

Mr. Gopal Chandra Ghosh
Mr. Rajkrishna Mondal

... For the Appellants

Md. Salahuddin
Md. Ahsanuzzaman
Md. Raziuddin

... For the Waqf Board

1. The petitioners are third parties and have sought for leave to file this appeal challenging the order dated 17.03.2023 passed by the learned Single Judge in WPA 6286 of 2023. The said writ petition was filed by a person claiming to be Mutwallis of a mosque called 'Taj Khan Masnad-E-Ala'. Admittedly, there have been disputes and differences between the various parties and the matter is pending before the civil court which is admitted by the learned counsel for the appellants.

2. The grievance of the appellant is that without impleading them the writ petition was filed and based on the order passed in the writ petition, the writ petitioner claimed that he is entitled to perform the religious festival which will be conducted during March-April of every year. On going through the order passed in the writ petition, we

find that there is no categorical finding rendered by the learned writ court recognizing the right in favour of the writ petitioner. In any event, any observations made by the learned writ court cannot be construed to confer any right on the writ petitioner or any third party as regards the Mutwalli which has to be decided in accordance with the provisions of the Waqf Act.

3. Therefore, we clarify that observations made in the order dated 17.03.2023 in WPA 6286 of 2023 shall not amount to declaration of any right in favour of any third party including the writ petitioner regarding the Mutwallis of the said mosque. We leave it open to all the parties to approach before the appropriate authorities and resolve the controversy among themselves. We further make it clear that the observations made by the learned writ court at best can enure to the festival which was conducted in March, 2023 and none of the observations contained therein will impact the festival to be conducted in March, 2024.

4. In the result, the appeal stands **disposed of**. Consequently, the connected applications also stand disposed of.

(T. S. Sivagnanam)
Chief Justice

(Hiranmay Bhattacharyya, J.)

