

22 25.09.2023
NB Ct. 14

WPA 20923 of 2023

Jamal Abdul Nasir
Vs.
The State of West Bengal & Ors.

Mr. Md. Nauroz Rahber,
Mr. Muhammad Jawwad.
..for the petitioner.

Mr. Suman Sengupta Sr. Govt. Adv.
Ms. Amrita Panja Moulick.
...for the State.

Mr. Md. Salahuddin,
Md. Ahsanuzzaman,
Md. Raziuddin.
...for the Board of Auqaf.

Mr. Iftekar Munshi.
..for the respondent no.10.

Mr. Debjit Mukherjee,
Ms. Susmita Chatterjee.
...for the KMC.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the joint Mutawalli of a Wakf property. The erstwhile Mutawalli being the respondent no.10 is creating unnecessary problems in or around the said property. He is organising unlawful assemblies of antisocial elements. They are threatening and intimidating the petitioner.

Learned counsel appearing on behalf of the respondent no.8 submits that a suit is already pending before the Wakf Tribunal and an order of status quo has been passed.

Learned counsel appearing on behalf of the respondent no.10 denies the allegations made in the writ petition and

submits that the appointment of the petitioner is itself under challenge in the said suit.

Learned counsel appearing on behalf of the State submits that if a cognizable case is made out, the petitioner shall be at liberty to file a complaint before the Magistrate under Section 156(3) of the Code. However, the police are keeping a sharp vigil at the locale.

Learned counsel appearing on behalf of the Kolkata Municipal Corporation submits that no allegations have been levelled against the Corporation.

It appears that a dispute exists between the private parties. A suit regarding the appointment with the present joint Mutawalli is pending. Any relief sought by any of the parties in this regard has to be made before the said Tribunal.

However, the petitioner shall be at liberty to act in terms of the decision in the case of ***Aleque Padamsee's*** Case, (2007) 6 SCC 171 if he thinks that a cognizable offence has been made out in his complaint.

In any event, the police authorities shall keep a sharp vigil at the locale and ensure that no breach of peace takes place.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)