

30.10.2024

ADSL.1.

Ct. No.2

sg

IA No. CAN 1 of 2024

in

C.O. 3799 of 2024

Tarak Pal @ Tarak Mal

-Versus-

**Fazle Khoda Nawab Sujauddin Khan
Jumma Masjid Wakf Estate Rep by Md. Monirul Islam &
Ors.**

Md. Abdur Rakib For the petitioner.

**Mr. Kishor Dutta, Ld. AG, (through V.C.)
Mr. Swapan Banerjee,
Mr. Dipanjan Dutta,
Mr. Dipanjan Dutta,
Mrs. Sumita Shaw,
Mr. Diptendu Shaw
Mr. Subhajit Chowdhury,For the State.**

**Mr. Sumity Kumar Ray,
Mr. Abdur Raquib Mollick,
Mr. Munishi Ashiq Elahi,
Mr. Mustak Murshed,For the O.P. No.1.**

**Mr. Nadeem Sulasman,
Mr. S. Islam Sk.For the Board of Wakf.**

1. This is an application filed on behalf of the opposite party no.3, Officer-in-charge of Murshidabad Police Station, Murshidabad seeking for modification of the order passed by this Court dated 29.10.2024 passed in connection with C.O. 3799 of 2024. Notice has duly been served upon the parties to the case.
2. Affidavit of service filed on behalf of the opposite party no.3 is taken on record.
3. The petitioner Tarak Pal @ Tarak Mal has filed this civil revisional application under Article 227 of the Constitution of India challenging the order dated

7th October, 2024 passed by the learned Wakf Tribunal, West Bengal in connection with Suit no. 38 of 2022. By passing the order impugned Wakf Tribunal rejected the petitioner's prayer to organize Kali Puja on the border line of the two plots being LR Plot no. 47 and 48 under Mouza Golapbag, under jurisdiction of Murshidabad Police Station.

4. Being aggrieved and dissatisfied with the said impugned order the petitioner has filed this civil revisional application.
5. The said revisional application was taken up for hearing yesterday i.e. 29th October, 2024 and the order was passed in presence of the learned Advocates of all the parties. By passing the order permission was granted to the petitioner to organize Kali Puja on the L.R. Plot No. 46 for the period six days starting from 30.10.2024 but the prayer of the petitioner for giving him permission to organize Kali Puja on the L.R. Plot Nos. 47 and 48 was turned down by passing the said order.
6. Now this application is filed on behalf of the opposite party No. 3/ Officer-in-charge of Murshidabad Police Station, Murshidabad by stating that the said Kali Puja cannot be organized on the L.R. Plot No. 46 since major part of the said plot land is occupied by the Mosque, and Idgah.

Moreover, there are residential houses, shops and restaurants in the remaining area of the said land and occupied by the Muslim community. So, it is submitted on behalf of the present petitioner/opposite no.3 that for such reasons Kali Puja cannot be organized on such L.R. Plot No. 46. However, permission may be given to the petitioner to organize Kali Puja on L.R. Plot No. 49.

7. It is said by the learned Advocate General that present applicant is the Inspector of the local police station and if the petitioner is permitted to organize Kali Puja on the said L.R. Plot No. 46 disturbance and dispute may arise in the locality and the restricted areas could lead to panic or chaos in the event of an emergency, endangering the lives of attendees and local residents and for such reason Kali Puja cannot be organized on such L.R. Plot No. 46. So, it is submitted that the petitioner may be permitted to organize Kali Puja on L.R. Plot No. 49 and if such permission is given to the petitioner on the said plot of land, nobody would be prejudiced and it shall enure to the benefit of the people at large.
8. Learned Advocate appearing on behalf of the petitioner of the civil revisional application opposes the submission as made by the learned Advocate

General and submits that at the time of passing of the order on 29.10.2024 the opposite party no.2, the Board of Wakf has not raised any objection regarding permission to the petitioner to organize Kali Puja on the L.R. Plot No. 46. Moreover, learned Counsel appearing on behalf of the State also concedes that permission may be given to the petitioner for organizing Kali Puja in L.R. Plot No. 46. Now they can not file such application for modification of the order and as such the prayer as made out in the application may be rejected outright.

9. I have considered the rival submissions advanced on behalf of both the parties. It appears that at the time of passing of the order dated 29.10.2024 objection was raised on behalf of the opposite parties no(s). 1 and 2 for giving permission to the petitioner for organizing Kali Puja on the said L.R. Plot No(s). 47 and 48 but they have submitted that permission may be given to the petitioner to organize the Kali Puja on L.R. Plot No. 46.

10. At the time of hearing an information slip in respect of L.R. Plot No. 49 is placed on behalf of the State. Let it be kept with the record. It is submitted on behalf of the State that it has no objection if the petitioner/ revisionist is given permission to

organize Kali Puja on the said plot of land for the aforesaid period. Today a further report has been submitted by the Inspector In-charge, Murshidabad Police Station, Murshidabad by stating that the major vacant part of L.R. Plot No. 46 has been occupied by the Mosque and Idgah and the access to said plot of land is very limited with only two narrow passages, one through the idgah and another adjacent to the mosque and if permission is given to the petitioner for organizing Kali Puja on the said plot of land may provoke disturbances or unrest in that locality. It is further stated in the said report that after passing of the order dated 29.10.2024, Murshidabad Police Station received a petition from the local residents including members of Fazle Khoda Nawab Sujauddin Khan Jumma Masjid Waqf Estate wherein it is stated that said L.R. Plot No. 46 has never been a disputed land and Mosque and Idgah are situated in the said land and it has expressed concerns about a potential breach of communal harmony if the petitioner is permitted to organize Kali Puja thereon. It is indicated in the said report that the members of the Masjid Waqf Estate have no objection if permission is given to the petitioner to organize

Kali Puja on the L.R. Plot No. 49 for the aforesaid period as indicated in the order dated 29.10.2024.

11. I find that there is merit in the submission on behalf of the opposite party no. 3 and to maintain peace and for avoiding dispute, disturbance and breach of communal harmony in the locality permission may be given to the petitioner to organize Kali Puja on the said L.R. Plot No. 49 instead and place of L.R. Plot No. 46. The said report as submitted by the Inspector In-charge, Murshidabad Police Station today be kept with the record.

12. I further find that if permission is given to the petitioner for organizing Kali Puja on the L.R. Plot No. 49 for the period of five days which would be commenced on and from 31.10.2024 in place and stead of L.R. Plot No. 46 then nobody will be prejudiced. Accordingly, the order passed by this Court earlier on 29.10.2024 is hereby modified to that extent that the petitioner shall be permitted to organize Kali Puja solely on the L.R. Plot No. 49 for the period of five days which would be commended on and from 31.10.2024.

13. The other portion of the order dated 29.10.2024 passed by this Court shall be remained unaltered.

14. The District Magistrate, Murshidabad and the Superintendent of Police, Murshidabad are directed to keep vigil on the incident so that the said Kali Puja, if organized, on the said L.R. Plot. No. 49 be done peacefully and they shall take effective steps to maintain peace and to prevent any untoward incident in that locality.
15. It is made clear that the parties to the case shall not be permitted to claim any equitable right upon the said L.R. Plot No. 49 by dint of this order.
16. Accordingly, application being CAN 1 of 2024 in connection with C. O. 3799 of 2024 is hereby allowed.
17. There will be no order as to costs.
18. Urgent Photostat certified copy of this order, if applied for, be given to the parties on payment of requisite fees.

(Prasenjit Biswas, J.)