

Sl.32  
21.08.2025  
Court No.6  
BP

C.O. 2923 of 2025

Musst. Abeda Khatoon  
-versus-  
Sheikh Jasim & Ors.

Mr. Iftekar Munshi  
Mr. Gour Baran Sau  
... for the petitioner

This application under Article 227 of the Constitution of India is at the instance of the mutawalli and is directed against an order dated July 15, 2025 passed by the learned Waqf Tribunal, West Bengal, Kolkata in O.A. 08 of 2023.

By the judgement and order impugned the original application was dismissed and only a direction was given to the Board of Waqf to avail the copy of the complaint of the complainant to the applicant in O.A. 8 of 2023 for the purpose of taking preparation to defend the proceeding running before the Board of Waqf.

The learned advocate appearing for the petitioner submits that the notice under Section 54(1) of the Waqf Act was served but the opposite parties in spite of receipt of the notice within two days from the date of such notice approached the Tribunal only on 17<sup>th</sup> April, 2023 i.e. after expiry of the time limit fixed in the notice for filing objections.

The learned advocate appearing for the petitioner further submits that the original complaint which forms the basis of the notice under Section 54(1) of the Waqf Act is not required to be forwarded to the alleged encroachers.

Record reveals that the opposite parties filed an application under Section 83(2) of the Waqf Act, 1995 praying for setting aside the show cause notice dated 15<sup>th</sup> March, 2023 issued under Section 54 (1) of the said Act. The learned Tribunal, by the order impugned, rejected the original application upon holding that the opposite parties should have approached the Board of Waqf first in response to the notice and to raise a demand of the copy of the complaint and to proceed accordingly. The learned Tribunal, however, gave a direction to the Board of Waqf to avail the copy of the complaint of the complainant to the applicant for the purpose of taking preparation to defend the proceeding running before the Board of Waqf. It is not in dispute that the proceeding before the Board of Waqf is still pending.

Since by the order impugned only a direction was passed upon the Board of Waqf to give a copy of the complaint of the complainant to the opposite parties herein, which forms the basis of the show-cause notice this Court is not inclined to interfere with such order in exercise of powers under Article 227 of the Constitution of India.

In view thereof, C.O. 2923 of 2025 stands disposed of leaving the petitioner free to raise all points before the Board of Waqf at the time of hearing.

There shall be, however, no order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

**(Hiranmay Bhattacharyya, J.)**