

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CIVIL REVISIONAL JURISDICTION
APPELLATE SIDE**

**Present:
The Hon'ble Justice Debangsu Basak**

CO 185 of 2025

**Subhrajit Ghosh & Ors.
Vs.**

**Sonaulla Auqaf Estate, represented by
its Mutwali, viz. Lutfar Rahaman & Anr.**

For the Petitioners: Mr. Aniruddha Chatterjee, Ld. Sr. Advocate (through VC)
Ms. Suman Sehanabis (Mandal), Advocate
Mr. Salok Sah, Advocate

For the Opposite Party No.1: Mr. Jaydip Basu, Advocate
Mr. Subhasish Mishra, Advocate

For the Opposite Party No.2: Mr. Momenur Rahman, Advocate

Heard & Judgment on : November 21, 2025

DEBANGSU BASAK, J.:-

1. Revisional application is directed against Order No.51 dated July 10, 2025 passed by the Tribunal established under the Waqf Act, 1995 in Suit No.10 of 2020.

2. By the impugned order, the Tribunal established under the provisions of the Waqf Act, 1995, was pleased to reject the application of the petitioners requesting for dismissal of Suit No.10 of 2020.
3. Learned Senior Advocate appearing for the petitioners submits that, initially, a writ petition was filed being WPA 6653 of 2020 by the petitioners. Such writ petition was disposed of by an order dated September 15, 2020. An appeal was preferred against the order dated September 15, 2020 in which the Division Bench in MAT 58 of 2021 restrained the West Bengal Auqaf Board and the Chief Executive Officer of the West Bengal Auqaf Board from initiating any proceedings under the Act of 1995 before the Tribunal.
4. Learned Senior Advocate appearing for the petitioners submits that, Suit No.10 of 2020 was filed by the respondent no.10 in the interregnum between the order of the learned Single Judge dated September 15, 2020 and the order of the Division Bench dated May 3, 2023. He submits that, the respondent no.10 is subordinate to respondent nos.3 and 4. The Division Bench of the High Court set aside the direction of the learned Single Judge permitting the respondent nos.3 and 4 to initiate proceedings under the Waqf Act, 1995. Therefore, the respondent no.10 who is subordinate to respondent nos.3 and 4 cannot initiate any proceedings under the Act of 1995. He submits that, the respondent no.10 is seeking to achieve something which the respondent nos.3 and 4 cannot directly obtain, which is not permissible.

5. Opposite party nos.1 and 2 are represented.
6. Petitioners before Court are concerned with R.S. Plot No.371, R.S. Khatian No.3509 corresponding to C.S. Khatian No.2062, C.S. Plot No.99 lying and situate at District-Jalpaiguri, Mouza-Kharia.
7. Petitioners filed a writ petition being WPA 6653 of 2020 concerning the immovable property noted in the preceeding paragraph. In such writ petition, one notice issued by the concerned Block Land & Land Reforms Officer dated June 18, 2020, another notice issued by the Inspector-in-Charge, Kotwali Police Station dated July 11, 2020 and the notice of the District Magistrate, Jalpaiguri dated April 7, 2020 were assailed.
8. In such writ petition, the learned Single Judge found that, there was an issue with regard to whether the property in question remained an Auqf property. The learned Single Judge, therefore, directed the Chief Executive Officer of the Auqf Board or the petitioners or the Mutwali to initiate appropriate proceedings under the Act of 1995 before the Auqf Tribunal, for a suitable decision.
9. An appeal was carried from the order dated September 15, 2020 passed in WPA 6653 of 2020 being MAT 58 of 2021. The Division Bench by the order dated May 3, 2023 held that, the direction given by the learned Single Judge in the order dated September 15, 2020 was beyond the impugned notices. The Division Bench noticed that, the order dated September 15, 2020 did not enter into the question of the legality of the notices impugned in the writ petition.

10. In such circumstances, the Division Bench was pleased to set aside such portion of the order dated September 15, 2020 which directed the Auqf Board and the Chief Executive Officer of the Auqf Board to initiate proceedings under the Act of 1995.
11. The order dated September 15, 2020 of the Division Bench did not decide the issue of title to the property. It did not foreclose the decision on issue to be rendered by the Tribunal. It did not foreclose the right of any party to approach the Tribunal.
12. Independent of such direction, a person, who is permitted under the Act of 1995 to approach a Tribunal is entitled to approach the Tribunal for a decision on the issues permitted to be decided under the Act of 1995 by a Tribunal. One of the issues which a Tribunal exercising jurisdiction under the Act of 1995 can decide is whether or not a property concerned is an Auqf property. Approach to such Tribunal can be made at the behest of a Mutwali as was done in the present case.
13. The letter dated June 18, 2020 of the BL & LRO required the petitioner to stop illegal construction. Notice dated July 11, 2020 of the Police also required the petitioner to stop illegal construction. Letter dated January 10, 2020 also related to illegal construction at the subject plot.
14. In my view, the order of the Division Bench dated May 3, 2023 did not preclude a decision on the title to the immovable property concerned to be made by the Tribunal, per se.

15. What it noted was that, since, the direction of the learned Single Judge dated September 15, 2020 was beyond the reliefs sought for in the writ petition, the Division Bench proceeded to set aside that direction. Setting aside of such directions of the learned Single Judge cannot be construed to mean that, the title to the immovable property concerned stood foreclosed or decided.
16. Disputes relating to the immovable property, if appropriately raised before a Tribunal functioning under the Act of 1995 can be decided by the Tribunal.
17. In such circumstances, I find no material irregularity in the order impugned warranting interference under Article 227 of the Constitution of India.
18. **CO 185 of 2025** is **dismissed** without any order as to costs.

(Debangsu Basak, J.)