

18.09.2020

Sl. No.17

Ct-5

BM

WPA 6935 OF 2020

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IA No.CAN 1/2020

Shyamal Naskar

Vs.

The State of West Bengal & Ors.

Mr. Mrityunjoy Chatterjee

Mr. Sk. Toslim Ali

... for the petitioner

The writ petitioner filed a civil suit and moved an application under Order 39 Rule 1 & 2 of the Civil Procedure Code in connection with such civil suit being Title Suit No.198 of 2018. The learned Civil Judge, Senior Division, Uluberia by an order dated July 19, 2018 directed the plaintiff i.e. petitioner herein and the defendant no.1 to maintain status quo in respect of nature, character and possession of the suit property till 18.8.2018.

The learned advocate further submits that the said order of status quo has been made absolute till the disposal of the suit. The petitioner for reasons best known to him filed an application under Section 144(2) of the Code of Criminal Procedure praying for a direction upon the Officer-in-Charge of the concerned Police Station to execute the order of status quo passed in connection with Title Suit No.198 of 2018. The Executive Magistrate

passed an order on July 31, 2020 directing the Officer-in-Charge to execute the order.

The petitioner is aggrieved by the inaction on the part of the Police authority by not executing the order in terms of the order dated July 31, 2020 passed by the Executive Magistrate, Uluberia. The order of status quo passed by civil court is an indefinite one. The said order is silent as to whether the petitioner is at all in possession of the suit property. The civil court has the power and authority to execute its own order.

Section 144(2) of the Code of Criminal Procedure does not authorise and empower the Executive Magistrate to direct the Officer-in-Charge of the concerned Police Station to execute an unreasoned and indefinite order of status quo. The said order dated July 31, 2020 passed by the Executive Magistrate, Uluberia is without jurisdiction and the same is nullity in the eye of law. The Police authority was therefore, justified in not executing the order in terms of the direction contained in the order dated July 31, 2020 passed by the Executive Magistrate, Uluberia. There is no inaction on the part of the Police authority. There is no merit in the instant writ petition. Accordingly, W.P. 6935 and I.A No. CAN 1 of 2020 are dismissed however, without any order as to costs.

(Hiranmay Bhattacharyya, J.)