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**W.P.A. No.7363 of 2020
With
C.A.N. 1 of 2020**

**Kamal Hossain Molla
Versus
The State of West Bengal & Ors.
(Via Video Conference)**

Mr. Imtiaz Ahmed,
Mr. Md. Ibrahim,
Mr. Hasan Shams For the petitioner.

Ms. Chamma Mookherjee,
Ms. Anima Chakraborty for the State.

Mr. Mainak Bose For the private respondents.

CAN 1 of 2020 is disposed of by taking up the writ petition for consideration.

Learned Advocate appearing for the petitioner submits that, despite a subsisting ad interim order of injunction dated January 16, 2018 passed in Title Suit No.38 of 2018, the police are assisting the private respondents in obtaining possession of the property belonging to the petitioner. He draws attention of the Court to the ad interim order of injunction and submits that, the defendants in such suit were restrained from disturbing the plaintiff's peaceful possession, from dispossessing the plaintiff from the suit property and also from erecting any kachha structure over the suit property by changing the nature and character of the suit property. He draws attention of the two sets of

photographs. He submits that, such photographs will demonstrate that, not only are the police assisting the private respondents in taking actual physical possession of the property concerned in violation of the subsisting order of injunction, but also, the police assisting the private respondents in making a construction on vacant land. He makes over the photographs to the learned Advocate for the State in Court today.

Ms. Mookherjee, learned Advocate appearing for the State assisted by Ms. Anima Chakraborty, Learned Advocate, submits that, the disputes are civil in nature between the private parties. Police were never aware of the order of injunction. The police became aware of such order of injunction in the month of August, 2020.

It appears from the records made available to Court that, there subsists an ad interim order of injunction dated January 16, 2018 passed in Title Suit No.38 of 2018. Although, writ Courts are slow in interfering and implementing an ad interim order of injunction since the ad interim order is yet to obtain finality and is capable of being modified, varied or vacated, in the facts and circumstances of the present case, since the ad interim order of injunction is subsisting for about two years, it would be appropriate to issue necessary directions to uphold such order. Neither this order nor the pendency of the writ petition will

however prevent the Court in seisin in Title Suit No.38 of 2018 passing the ad interim order of injunction to vacate, vary, modify or recall such order at the instance of the parties, in accordance with law. This order will not be construed as one to have affirmed the ad interim of injunction in any manner whatsoever.

Since there subsists an ad interim order of injunction as narrated above, since the photographs produced before the Court, prima facie, establish that, the private respondents are acting in breach of such order of injunction, the police will ensure that, no further construction occurs at the locale. The Officer-in-Charge of the concerned police station will depute competent police personnel to the locale to take photographs of the existing condition of the premises concerned including the vacant area. The police will ensure that, no other construction occurs at the locale. The police will also ensure that, the parties to the Title Suit No.38 of 2018 abides by the order that may be passed therein.

W.P.A. No.7363 of 2020 is disposed of.

No order as to costs.

(Debangsu Basak, J.)