

24th December,
2020
(AK)
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W.P.A. 7908 of 2020

Smt. Dipali Ghosh
Vs.
The State of West Bengal & Ors.

Mr. Animesh Paul

...For the Petitioner.

Mr. Chandi Charan De
Mr. Anirban Sarkar

....For the State.

The petitioner complains that the police authorities are not implementing an order of injunction passed by the Civil Court in Title Suit No.452 of 2018, pending before the 4th Court of Civil Judge (Junior Division) at Howrah by going on making construction on the suit property.

A report is filed by learned counsel appearing for the respondent authorities which indicates that the matter is civil in nature and that private respondent no.4 has been making construction about 10 to 15 feet away from the land-in-question. A local enquiry, as per the report, also substantiated such finding.

As such, a factual dispute has arisen as to whether the private respondent is acting in violation of the injunction order by constructing on the suit property, regarding which the injunction order was passed.

It is beyond the charter of the writ court to enter into such factual dispute. However, it is well-settled that the civil court, apart from the powers of contempt, has ample jurisdiction to implement its own orders, including injunction orders, if necessary by directing police help.

Such direction, however, has to be preceded by prima facie satisfaction being arrived at by the court as regards the actual violation of the injunction order.

In such scenario, it would be unwarranted for the writ court to go on directing the police to implement the order, without any prima facie finding by the Civil Court as regards actual violation of the same.

Accordingly, W.P.A No. 7908 of 2020 is disposed of by granting the petitioner liberty to approach the appropriate civil court (appellate /trial court) to pray for an order of police help on the ground of violation of the injunction order.

If such an approach is made, the civil court shall decide on the same upon hearing the concerned parties and upon arriving at prima facie satisfaction as regards the actual violation of the injunction order by the private respondent.

It is expected that the Civil Court shall endeavor to decide such application for police help, if made by the petitioner, as expeditiously as the business of such court permits.

The report filed today be kept on record.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)