

15th December,
2020
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W.P.A. 10283 of 2020

Sri Ashok Mondal @ Ashok Kumar Mondal
Vs.
The State of West Bengal & Ors.

Mr. Alokesh Dalai
...For the Petitioner.

Mr. Gouranga Kumar Das
...For the Private Respondent.

Ms. Sipra Majumdar
Ms. Srilekha Bhattacharyya
...For the State.

The petitioner argues that despite the pendency of applications for injunction and connected applications before a Civil Court, the private respondent has been making construction on the petitioner's property.

As such, the petitioner approached the criminal court and obtained an order under Section 144(2) of the Criminal Procedure Code on October 13, 2020, annexed at page-56 of the writ petition.

Learned counsel submits that due to the Pandemic situation the Civil Court is not functioning regularly and there is not option before the petitioner but to approach this court to ensure that the order dated October 13, 2020 is implemented by the police authorities.

Learned counsel appearing for the private respondent submits that a partition suit is pending

between the parties. Learned counsel further denies the allegations made by the petitioner on facts.

Learned counsel appearing for the State respondent submits a Report in the form of instruction, which, as the petitioner's counsel right to points out, pertains to some other complaint and not the proceeding under Section 144(2) of the Criminal Procedure Code, bearing MF no. 320 of 2020.

As such, the said Report has no relevance to the present case.

In view of there being substance in the petitioner's contention that the petitioner cannot be rendered remediless in view of the staggered functioning of the Civil Courts due to the Pandemic.

Accordingly, W.P.A 10283 of 2020 is disposed of by directing respondent no.6 to take immediate steps for implementation of the order dated October 13, 2020 passed in MF NO. 320 of 2020, annexed at page-56 of the present writ petition.

However, the merits of the contentions of the petitioner and the private respondent have not been gone into by this court and it will be open to the Civil Court to adjudicate the pending applications and suit between the said parties on their own merits without being prejudiced in any manner by any of the observations made herein.

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.)