

ORDER SHEET
WPO 447 of 2020
IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
ORIGINAL SIDE

TAPAN KUMAR BHUNIA AND ANR
VS
THE STATE OF WEST BENGAL AND ORS

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date : December 22, 2020.

Appearance:
Mr. Syed Shamsul Arefin, Adv.
... for petitioner.
Mrs. Sucharita Paul, Adv.
...for state respondent nos 1 to 4.
Mr. Ranjit Chatterjee, Adv.
Ms. Monisha Nath, Adv.
...for the KMC.
Mr. Sounak Bhattacharya, Adv.
Mr. Sumitra Chakraborty, Adv.
...for the private respondent.

The Court : Learned Counsel for the petitioners submits that the petitioners obtained an order of status quo against the private respondents on the ground that the private respondents are changing the nature and character of the petitioners' property. Such status quo granted by a competent Civil Court, where the petitioners have filed a suit, was subsequently vacated. Thereafter, the petitioners have applied for revival of the status quo order, which is still pending. It is submitted that, during the pendency of the said application for revival and taking undue advantage of the irregular functioning of the Civil Court due to the pandemic situation, the private respondents are building a massive structure on the said property, with the intention to render the Civil Court proceeding infructuous.

Learned Counsel for the private respondents controverts such allegation on facts.

Learned Counsel appearing for the respondent authorities submits that since the matter is *sub judice* before the Civil Court, there is no scope for the police to interfere in the matter. A report in the form of instructions is also filed to that effect in Court today, which is kept on record.

Since the Civil Court is in *seisin* of the matter and the order of status quo passed by the Civil Court was vacated for whatever reason, technical or otherwise, this Court ought not to assume jurisdiction under Article 226 of the Constitution of India to interdict the Civil Court proceeding. As such, the writ petition is not maintainable.

Accordingly, WPO 447 of 2020 is dismissed as not maintainable, with liberty to the petitioners to approach the Civil Court for early hearing of the applications filed in the pending suit. If such approach is made, it is expected that the concerned Civil Court shall make an endeavor to dispose of the same at the earliest as per roster of the Civil Court.

There will be no order as to costs.

Urgent certified website copies of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(SABYASACHI BHATTACHARYYA, J.)