

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 489 of 2021

**Jamat Ali Molla
Vs.
The State of West Bengal & Ors.**

Mr. Sanjay Mukherjee,
Ms. Koel Sarkar
... for the petitioner

Mr. Santanu Kumar Mitra,
Mr. Md. Mansoor Alam
...for the respondent-authorities.

The petitioner filed a civil suit and obtained an injunction order restraining the defendants (private respondents herein) from taking forceful possession of the property-in-suit from the plaintiff (present petitioner), without due process of law.

Subsequently, upon the attempts of the private respondents to violate such order, the civil court passed an order on December 24, 2020 directing the Officer-in-Charge, Bhangore Police Station to personally interfere in the matter and ensure that the order of injunction dated April 16, 2019 is not violated. In the event of necessity, the Officer-in-Charge, Bhangore Police Station was directed to render police protection to safeguard the right to property and person of the plaintiff.

However, it is submitted that the police is not implementing the order of the civil court, despite the private respondents regularly trying to disturb the petitioner's possession in respect of the property-in-suit, in contravention of the civil court's order.

It is argued by learned counsel for the petitioner that the petitioner sought to lodge complaints with the police and on refusal of the police to accept, such complaints had to be sent by post.

Such contentions are controverted by learned counsel for the respondent-authorities who, at the outset, submits typically that the matter relates to a civil dispute. It is further pointed out by the respondents that a report has already been directed to be filed before the civil court, which the police will do. Learned counsel further submits that the police is enquiring into the matter and have already initiated prosecution under Section 107 of the Code of Civil Procedure, which is going on. It is also submitted that the police-authorities have asked both the parties to maintain peace in the area.

However, merely "maintaining peace" or raising the bogey of a civil dispute will not suffice in the matter, in view of the specific direction of the civil court on the Officer-in-Charge of the Bhangore Police Station to personally interfere with the matter and to render police protection to safeguard the right to property and person

of the petitioner, if necessary. Initiating prosecution under Section 107 of the Code of Civil Procedure or merely asking parties to maintain peace, is not sufficient compliance of the civil court's order.

As such, W.P.A. No. 489 of 2021 is allowed, thereby directing the respondent no. 3 to provide adequate police protection to the petitioner at the disputed premises, by deploying sufficient police personnel, during the course of this day and maintain strict and constant vigil over the property-in-dispute to ensure that the injunction order passed by the civil court on April 16, 2019 in Title Suit No. 528 of 2019, is not violated in any manner whatsoever.

Needless to say, this direction is in addition to the direction passed by the civil court on the police to submit a report on the scheduled date, that is, January 29, 2021 before the said court, which the police will do in any event. The police shall also give an estimate of necessary costs for providing continuous police protection at the suit premises for the purpose of implementing the civil court's order, before the civil court for passing the necessary orders by the said Court for the petitioner to deposit such costs. However, immediate grant of police protection, as directed above, shall not be stalled on the pretext of filing such estimate and should be given forthwith.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

Parties shall act on the communication of the counsel and/or server copies of this order, without insisting on prior production of certified copy thereof.

(Sabyasachi Bhattacharyya, J.)