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

W.P.A. No. 4730 of 2021

(Via Video Conference)

**Hafizur Rahaman Peyada
-vs.-
The State of West Bengal & Ors.**

Mr. Pradip Kumar Chatterjee,
Mr. Mihir Kundu
...for the petitioner

Mr. Bibek Jyoti Basu,
Mr. Uttam Kumar Dey
...for the State-respondents

Mr. Mukleswar Maity
...for the respondent no. 5

Affidavit-of-service filed in Court today be kept on record.

Learned counsel for the petitioner argues that despite subsistence of an injunction order passed by a competent civil court, restraining the private respondent from interfering with the petitioner's possession in respect of the disputed property, respondent no. 5, by suppressing such order, obtained an order under Section 144 of the Code of Criminal Procedure from the concerned Magistrate.

Although such order under Section 144 of the Code of Criminal Procedure has already spent its force, it is submitted that the police-authorities are not

taking any steps on the several representations filed by the petitioner in that regard.

Learned counsel appearing for the respondent-authorities as well as the private respondent oppose such contentions.

It appears from the submission of parties as well as materials annexed to the writ petition, that there is a subsisting order of injunction passed by the competent civil court. The allegation of violation of such order has to be dealt with on prima facie materials being produced and the civil court being satisfied of such violation. It would be usurping the jurisdiction of the civil court in the event the writ court passes such an order, within the limited scope of factual adjudication under Article 226 of the Constitution of India.

Accordingly, W.P.A. No. 4730 of 2021 is disposed of by granting the petitioner liberty to approach the concerned civil court with an application for implementation of the injunction order passed by the said Court.

If such an application is filed by the petitioner, the civil court is requested to dispose of the said application in accordance with law, as expeditiously as the business of the said court permits, without being prejudiced by any of the observations made herein.

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.

(Sabyasachi Bhattacharyya, J.)