

Court No. 24

29.06.2021

(Item No. 7)

(AB)

**W.P.A 10570 of 2021
(Via Video Conference)**

Pintu Kundu & Anr.

vs

The State of West Bengal & Ors.

Ms. Munmun Tewary

..... for the petitioners

Mr. Md. Galib

Mr. Abdus Salam

..... for the State

Mr. Jayanta Banerjee

..... for the respondent nos. 9-16

Affidavit of service filed in Court today is taken on record.

The petitioners allege illegal and unauthorized construction being made by the respondent Nos. 9 – 16. The petitioners have annexed copy of order passed in the Title Suit being T.S. No. 604 of 2019 wherefrom it appears that by an order dated 4th December, 2019 the parties to the Title Suit were directed to maintain status quo as regards nature, character and possession as on date till disposal of the Suit. By a further order dated 06.01.2021 the Court directed the Officer-in-charge, Goaltore Police Station to ensure that the order dated 04.12.2019 is implemented by the parties strictly and to submit a compliance report before the court.

The petitioners case is that in spite of the order of injunction passed by the learned Civil Court in respect of the suit property, the private respondents are merrily carrying on with the unauthorized

construction. It has been submitted that even during the lock down period and the night curfew imposed in the State of West Bengal, construction was being made in full swing, during the night, at a very fast pace.

The petitioners approached the Pradhan of the Gram Panchayat as well as made representation complaining of the unauthorized construction before the Officer-in-charge of the Goaltore Police Station and allege that the representations have not been considered by the authorities till date.

The learned advocate representing the private respondent Nos. 9 -16 submits that they are in permissive possession of the property and a local club is being run from the said premises. It has been submitted that the injunction order is being strictly followed by the parties.

The learned advocate appearing on behalf of the Goaltore Police Station submits that on receipt of a complaint from the petitioners a proceeding has been initiated against the private respondents being Goaltore Police Station case No. 74 of 2021 dated 05.06.2021 under Sections 341/188/506/34 of the Indian Penal Code and the investigation of the case is in progress.

Photocopies annexed to the writ petition shows that some type of construction is going on in the

premises. The learned Civil Court has specifically directed the parties to maintain status quo as regards nature, character as well as possession in the suit property. The police have been directed to ensure that the order of status quo is being strictly complied with.

The learned advocate for the private respondents has been unable to produce any sanction plan permitting construction in the suit premises.

Accordingly, the instant writ petition is disposed of by directing the Sub-Divisional Officer, Garhbeta being the respondent No. 4 herein to ensure that no unauthorized construction is being carried on in the said premises. The Inspector-in-charge of the Garhbeta Police Station is directed to strictly comply with the order passed by the learned Civil Court on 6th January, 2021 and necessary compliance report be filed before the learned Civil Court in terms of the said order. The respondent No. 4 shall ensure compliance of this order through the Pradhan of the Gram Panchayat being the respondent No. 6 herein.

In the event the Pradhan is of the opinion that the alleged construction has been made without obtaining any plan from the Panchayat, then necessary steps shall be taken in accordance with law for demolition of the unauthorized construction, after giving an opportunity of hearing to all the necessary

parties, including the petitioners, at the earliest, but positively within a period of twelve weeks from the date of communication of a copy of this order.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)