

13/07/2021
Item No.6.
Court No.8.
AB

Through Video Conference

W. P. A. 11303 of 2021

Tapas Kumar Gayen

Vs

The State of West Bengal & Others

Mr. Dipankar Pal ...for the Petitioner.

Mr. Subhabrata Datta,
Mr. Sayan Ganguly,
Mr. Anirban Roy ...for the State.

The petitioner complains of police inaction.

Learned advocate appearing for the petitioner submits that, initially a writ petition was filed, which was disposed of by an order dated September 29, 2020 by observing that the private parties are at liberty to avail of their remedies before the appropriate forum.

Pursuant thereto, the petitioner approached the civil court and filed title suit no.853 of 2021 in which an order of status quo was passed. The order of status quo is being extended from time to time. The civil courts are not functioning presently. The private respondents despite the order of status quo are acting in violation of such order. The police are inactive despite the complaints.

Learned advocate appearing for the State submits that, the police received two complaints. On receipt of the first complaint, a prosecution under Section 107 of the Code of Criminal Procedure was submitted. Thereafter, the police was informed about the order of status quo passed by the civil court. The police enquired into the second complaint and submitted a prosecution under Sections 107/116(c) of the Code of Criminal Procedure.

In the facts of the present case, there subsists an *ex parte* ad interim order of status quo. The order states that the parties to the suits are directed to maintain status quo in respect of nature, character and possession of the suit property. The order, however, does not define the possession of the respective parties in the suit property. In absence of such delineation in the order of status quo as to which party is in possession of what portion of the property, the order of status quo is incapable of enforcement.

In such circumstances, it would be imprudent for a writ court to intervene and call upon the police to implement an order of status quo passed by the civil court, which does not specify the status of the possession of the respective parties in the suit property.

The police having acted on the complaints of the petitioner as noted above, no further interference is called for.

It is for the parties to the suit to seek appropriate remedy before the civil court.

W.P.A. No.11303 of 2021 is disposed of, accordingly.

Urgent Photostat Certified copy of this order, if applied for, be supplied expeditiously after complying with all necessary legal formalities.

(Debangsu Basak, J.)