

35 14.12.2021

gd/ssd

FMA 962 OF 2021
IA NO: CAN/1/2021
MD. JULFIKKAR ALI
VS
THE STATE OF WEST BENGAL & ORS.
(Through Video Conference)

Mr. Mrityunjoy Goswami,
Mr. Parikshit Goswami
..for the Appellant

Md. Younus Mondal
..for the Respondent No.8.

By this appeal respondent no.8 in the writ petition has challenged the order dated 30th of June, 2021 passed by the writ court in WPA 10707 of 2021 by observing that the writ petitioner (respondent no.8) herein has obtained the sanctioned plan, therefore, he is entitled to raise the construction over his property and directing the Officer-in-Charge, Deganga Police Station to render all necessary assistance to the writ petitioner in effecting the construction over his property.

The above direction was issued by the learned Single Judge considering the grievance raised by the writ petitioner that in spite of having the sanctioned plan, the private respondents in the writ petition (including the present appellant) were not allowing him to make the construction.

The learned counsel for the appellant has

submitted that subsequently in TS 503 of 2021 filed by the appellant temporary injunction order has been passed by the Civil Judge on 01.09.2021, but police authorities are not acting in accordance with the said temporary injunction order on account of the direction issued by the learned Single Judge.

Having examined the record it is noticed that the learned Single Judge in the impugned order has not gone into the rival case of the parties in respect of their right on the property in question, but has issued the direction keeping in view the fact that the writ petitioner had the sanctioned plan in his favour. The order of temporary injunction has been subsequently passed. If any order of temporary injunction or permanent injunction is passed by the Civil Court in respect of the subject property, then in the facts of the case that will prevail over the order passed by the learned Single Judge.

The above clarification takes care of the limited grievance raised by the appellant. Hence, we dispose of this appeal by clarifying the position as above.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)

