

06.09.2021.
Item No. 75.
Court No.13
ap

**W.P.A. No. 13471 of 2021
(Through Video Conference)**

**Sri Man Mohan Kedia & Anr.
Versus
The State of West Bengal & Ors.**

Mr. Probal Mukherjee, Id. Sr. Advocate,
Mr. Uday Shankar Chatterjee,
Mr. Vikash Singh,
Mr. Rahul Sharma.

...For the petitioners.

Ms. Chama Mukherjee,
Ms. Monika Pandit.

...For the State.

Mr. Rahul Karmakar,
Mr. Deobrata Upadhyay,
Ms. Munmun Mazumder.

...For the respondent no.4.

Mr. Ram Anand Agarwal,
Ms. Nibedita Pal,
Mr. Ananda Gopal Mukherjee.

...For the respondent no.5.

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

Officer-in-charge, Sankrail Police Station has
given instructions dated 5th September, 2021 to the
Counsel for the State. The same is taken on record.

The writ petitioners complain that Sankrail
Police Station has not complied with the order dated
10th August, 2021 passed in Title Suit No. 379 of
2021.

The respondents are represented before this
Court.

Ms. Mukherjee, Counsel for the State submits that a G.D. Entry has been registered by the police and enquiries into the case are going on.

It appears that by an order dated 10th August, 2021, the Officer-in-charge, Sankrail Police Station was directed to take all necessary steps to prevent the breach of the injunction order passed by this Court on 8th July, 2021 by any party. It was further directed that the Officer-in-charge, Sankrail Police Station shall not be influenced by the allegations raised by the plaintiffs in the application.

Mr. Probal Mukherjee, learned Senior Advocate for the petitioners submits that police are not complying with the order of the Civil Court.

Mr. Ram Anand Agarwal, Counsel for the respondent no.5, who is the defendant in the suit, submits that construction, being effected by his client over his own property, has been stopped by the police.

Mr. Karmakar, Counsel for the respondent no.4 submits that his client has filed a separate civil suit and that the petitioners are seeking from the Writ Court what they could not obtain from the Civil Court in the pending civil suit.

This Court has noted that the construction being effected by the private respondent no.5 in his own land has been stopped by the police.

This Court cannot come to any finding as to whether the construction being effected by the private respondents, are within their own land or the petitioners' land. The land, in any event, is tenanted.

This Court, therefore, directs the Officer-in-charge, Sankrail Police Station to ensure status quo as on date. The learned Civil Judge (Senior Division) 3rd Court, Howrah shall take up the application for injunction in Title Suit No. 379 of 2021 and determine as to whether its order of injunction has at all been violated by the defendants, and as to whether the defendant no.5 is effecting construction on his own land or on the land belonging to the landlord or that of the writ petitioners.

This Court cannot at this stage come to any conclusion of any inaction by the Sankrail Police Station.

It is, however, not understood as to under what circumstances Sankrail Police Station Case No. 747 of 2021 dated 27th June, 2021 under Sections 447/355/385/506/34 of the Indian Penal Code has been registered. The investigation into the same shall be carried on.

It is ordered that the learned Civil Judge (Senior Division) 3rd Court, Howrah shall examine in accordance with law, inter alia, by appointing Advocate Commissioner to give the Court a clear and

true picture of the conduct of the parties pre and post injunction.

The learned Civil Judge (Senior Division) 3rd Court, Howrah shall be free to pass appropriate orders as he may deem fit in the facts and circumstances of the present case.

The aforesaid exercise must be undertaken by the learned Civil Judge (Senior Division) 3rd Court, Howrah immediately upon receipt of a copy of this order and the proceedings under Order 39, Rules 1 and 2 of the Code of Civil Procedure, 1908 must be disposed of within a period of two months from date.

With the aforesaid directions, the instant writ petition shall stand disposed of.

There will be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)