

IN THE HIGH COURT AT CALCUTTA  
CONSTITUTIONAL WRIT JURISDICTION  
APPELLATE SIDE

**WPA 16861 of 2019**

Mafajul Hussain & Ors.  
Vs.  
The State of West Bengal & Ors.

Mr. Md. Habibur Rahman,  
Ms. Saba Perween  
... For the petitioners.

Mr. Lalit Mohan Mahata,  
Ms. Jhuma Chakraborty  
... For the State.

Mr. Soumya Dasgupta  
... For the respondents no. 5 & 6.

It is submitted by the advocates appearing for the parties that the notification issued by this Court on 11<sup>th</sup> April, 2021, was noticed at a belated stage and as such, they are appearing physically in Court.

Since, all the parties are represented, the matter is taken up on physical mode instead of virtual mode.

By an order dated 12<sup>th</sup> September, 2001, the learned Civil Judge, (Junior Division), Islampur, Uttar Dinajpur, in T.S. 60/94 passed the following decree.

“The suit be and the same is decreed  
ex- parte without cost.

The defdts are restrained by an order

of permanent injunction from disturbing the peaceful possession of the plaintiffs over the suit land.”

On the allegation that the defendants in the said suit, being the respondents no.4, 5 and 6 in the instant writ petition, are violating the decree, the petitioners have approached the Executive Magistrate, Islampur, Uttar Dinajpur by filing an application under section 144(2) of the Code of Criminal Procedure 1973 (Cr PC). By an order dated 19<sup>th</sup> February, 2019, the said Executive Magistrate, directed I.C., Karandighi Police Station, being the respondent no.2, to comply with the order of the learned Civil Judge (Junior Division), dated 12<sup>th</sup> September, 2001, passed in T.S. 64/94.

It appears from the report dated 22<sup>nd</sup> March, 2021 filed by the respondent no.2, that the said respondent no.2, has taken necessary steps upon receiving the complaint from the petitioners and have also prayed for necessary order under the provisions of sections 107 CrPC. It, therefor, cannot be said that the respondent no.2, or the police authorities have taken no steps thereby giving rise of police inaction. It is, however, at the same time true that the respondent no.2 shall render all assistance to see that the decree passed on 12<sup>th</sup> September, 2001 by a competent Civil Court, which is still in

subsistence, be honoured particularly when the order of the Magistrate in 144(2) proceedings lapse with the efflux of time.

The respondent no.2 shall ensure that the decree dated 12<sup>th</sup> September, 2001 is complied with by taking such steps as may be required as against the respondents no.4, 5 and 6, if the said respondents attempt to violate the order.

Nothing further remains to be adjudicated in the writ petition and the same is accordingly disposed of without any order as to costs.

Since I have not called for any affidavits, the allegations contained in the writ petition are deemed to have not been admitted by the respondents.

Urgent photostat certified copy of this order, if applied for, is to be given to the parties upon compliance with the necessary formalities.

**(Arindam Mukherjee, J.)**