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2021

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
(Via Video Conference)**

W.P.A. No. 8785 of 2020

**Rama Prasad Basu
Versus
State of West Bengal and others**

Mr. Subhrendu Halder.
...for the petitioner.

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

The petitioner was declared a licensee of 121 square feet of premises by the Thika Controller, in respect of a thika property, vide order dated May 28, 2018, a copy of which is annexed to the writ petition. Subsequently, a challenge was preferred against the said order, which is pending before the appropriate Tribunal.

Learned counsel for the petitioner alleges that the private respondents are making illegal constructions on the thika property and also restraining the petitioner from using the toilet annexed to the property regarding which the petitioner was declared to be the licensee by the Controller. It is submitted that, despite several complaints being lodged before the police, which are

annexed to the present writ petition, the police authorities are not taking any steps in that regard. It is further contended that the petitioner's repair work, pursuant to the order of the Thika Controller, is also being stalled by the respondents.

Learned counsel appearing for the State-respondents submits that the remedy of the petitioner lies before the Thika Controller, in the event there is any allegation of illegal construction being made by the private respondents on the thika property. That apart, learned counsel submits that there is no specific allegation in the writ petition as regards the private respondents creating any obstruction in the petitioner's user of the structure in his occupation.

However, it has been sufficiently indicated in the complaints lodged before the police authorities that the private respondents are not permitting the petitioner to use the toilet attached to the structure, in respect of which the petitioner has already been declared to be a licensee by the Thika Controller. It is evident from the order of the Thika Controller that the petitioner was also given permission to repair his occupied portion without changing the character thereof.

A certificate issued by the Thika Controller granting the petitioner formal licence for occupation of the fortified structure is also annexed at page 26 of

the writ petition, which clearly mentions the exact portion of the structure of which the petitioner is in occupation as a licensee.

In such view of the matter, there is no reason why the police should not look into the matter and provide appropriate assistance to the petitioner in order to properly implement the order of the Thika Controller.

WPA 8785 of 2020 is, thus, disposed of by directing respondent no.4 to ensure that the order of the Thika Controller dated May 28, 2018, holding the petitioner as licensee of the disputed property and permitting the petitioner to repair his occupied portion, is duly complied with. The respondent no.4 shall also provide adequate assistance to the petitioner in completing such repair work and his ingress and egress to the property of which the petitioner is a licensee, in the event the petitioner approaches the respondent no.4 with specific intimation as regards the date on which such repair work is to be undertaken and as to any specific instance of hindrance being created by the private respondents to the petitioner's ingress and egress to the said structure.

There will be no order as to costs.

Urgent website certified copies of this order, if applied for, be given to the parties upon compliance of all formalities.

(Sabyasachi Bhattacharyya, J.)