

AD. 33.
February 3, 2021.
MNS.

W. P. A. 9470 of 2020
(**Via video conference**)

Gouri Shankar Hazra
Vs.
State of West Bengal and others

Mr. Abhijit Chakraborty

... for the petitioner.

Mr. Dipankar Mondal,
Mr. Abdul Aziz Mondal

...for the private respondents.

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

Despite service, none appears on behalf of
the respondent-authorities, although the petitioner
and the private respondents are represented
through counsel.

The grievance of the petitioner is that,
despite an injunction order being passed by a
Civil Court dated October 12, 2020 passed in
Title Suit No. 176 of 2020 by the Civil Judge
(Junior Division) at Bidhannagar, restraining the
private respondents from creating any third party
interest and also restraining them from entering
into the suit property illegally, the private
respondents are violating the said order and

encroaching upon the petitioner's property as well as making construction thereon.

Despite complaints being made in that regard, it is contended, the police authorities are not taking any action.

Learned counsel for the petitioner also contends that, in a suit filed by the private respondents, injunction was refused on the ground that a prior injunction order was issued on October 12, 2020 by the Civil Judge (Junior Division), at Bidhannagar.

Learned counsel appearing for the private respondents submits that the private respondents have been in possession of the property-in-question at all relevant points of time and that the injunction was obtained *ex parte*, leaving no opportunity to the private respondents to vindicate their stand before the trial court. As such, it is contended, a vacating application has also been filed by the private respondents, which is now pending before the civil court.

Be that as it may, the matter is contentious on two scores:

First, as to who was/is in actual physical possession of the property-in-question at the time

when the injunction order was passed and at the present moment; and

Secondly, as to whether the private respondents violated the order of injunction dated October 12, 2020; if so, in what manner.

However, it is inappropriate for the writ court to enter into the factual details of such questions, being constrained by the fact that detailed evidence cannot be led or appreciated in connection with a writ petition. The jurisdiction to do so vests with the civil court, even for recording *prima facie* satisfaction as regards the above bones of contention.

In such view of the matter, it is open to the petitioner to approach the concerned civil court and seek appropriate remedy for implementation of the order of injunction and/or any form of restitution, if the petitioner is so entitled in view of violation of the injunction order, if at all.

Accordingly, W. P. A. 9470 of 2020 is disposed of by granting liberty to the petitioner to approach the concerned civil court, which granted the injunction dated October 12, 2020, for appropriate reliefs, as indicated above.

If so approached, the civil court shall expeditiously dispose of the same without being

unnecessarily influenced in any manner by any of the observations made herein.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)