

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

W.P.A. No. 10023 of 2020

(Through Video Conference)

Kala Chand Mukherjee

-vs.-

The State of West Bengal & Ors.

Mr. Samrat Dey Paul
...for the petitioner

Mr. Pantu Deb Roy,
Mr. Subrata Guha Biswas
...for the State-respondents

The petitioner alleges that, despite having obtained an interim order under Section 144(2) of the Code of Criminal Procedure, protecting the petitioner's possession, and several subsequent directions of the Magistrates on the police-authorities to ensure that the private respondents do not make any illegal construction and/or disturb the petitioner's possession in respect of the disputed property, the police-authorities are not taking appropriate steps in that regard.

Learned counsel for the respondent-authorities filed a report, in the form of instruction, and submits that the police-authorities have already filed a report, as directed by the concerned Magistrate, in connection with the criminal case and have initiated a proceeding under Section 107 of the Code of Criminal Procedure.

Let the report filed by the State-respondents be kept on record.

However, it appears from the records that the Executive Magistrate at Barrackpore, District-North 24-Parganas, issued several directions on the police-authorities to ensure that the private respondents do not disturb the petitioner's possession and/or make any illegal construction in respect of the disputed plot. Hence, the duty of the police-authorities is not completed merely upon initiating a proceeding under Section 107 of the Code of Criminal Procedure and filing a report before the Magistrate.

Accordingly, W.P.A. No. 10023 of 2020 is disposed of by directing the respondent no. 3 to ensure immediately, by deploying adequate police personnel, that the orders of the Magistrate are complied with and the petitioner's possession is not disturbed in any manner and further that the private respondents do not make any illegal construction.

However, the present order shall be subject to further orders which may be passed by the concerned Magistrate in the proceeding initiated by the petitioner. It is made clear that this order is passed without going into the respective contentions of the parties in the criminal proceeding pending before the Magistrate.

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 of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)