

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE
(via video conference)**

W.P.A. No. 10379 of 2020

**Sk. Shazahan Molla & Ors.
Vs.
The State of West Bengal & Ors.**

Mr. Sounak Bhattacharya
... for the petitioners

Mr. Lalitmohan Mahata,
Ms. Jhuma Chakraborty
...for the respondent-authorities

The petitioners' grievance is that, despite having obtained an order of *status quo* from a civil court in a partition suit with regard to possession as well as nature and character of the property-in-question, the private respondents obtained a contrary order from the criminal court under Section 144 of the Code of Criminal Procedure. The Executive Magistrate, by the order dated December 10, 2020 (subsequent to the civil court's order dated January 20, 2017), directed the police to see that no breach of peace takes place and to see that the present petitioners do not disturb the private respondents at the time of lawful repairing work of the present private respondents over the schedule premises.

Learned counsel for the petitioners prays for a direction upon the police to comply with the specific order passed by the civil court.

Despite service, none appears on behalf of the private respondents. Affidavit-of-service filed in Court today be kept on record.

Learned counsel appearing for the respondent-authorities submits a report where the Inspector-in-Charge of the concerned police station indicates that the police have initiated due proceedings in pursuance of the civil court's order.

Read in conjunction, the civil court's specific order and the order passed by the criminal court are not in conflict, since the criminal court specifically stipulated that only "lawful" repairing work, conducted by the present private respondents, shall be protected by the police. It is evident that, in view of the specific order passed by the civil court for maintenance of *status quo* regarding nature, character and possession of the property-in-dispute, any repair work, without the permission of the civil court, would tantamount to being unlawful.

As such, there cannot arise any question of the police assisting such unlawful repair work of the petitioners unless the civil court order is modified/vacated.

However, the petitioners ought to approach the criminal court for clarification in that regard.

It would suffice if the police authorities do not provide any protection to the private respondents, for the time being, for the purpose of carrying out repair work in contravention of the civil court's order.

Accordingly, W.P.A. No. 10379 of 2020 is disposed of. Liberty is granted to the petitioners to approach the criminal court for appropriate modification/clarification of its order dated December 10, 2020, in view of the prior status quo order of the civil court.

There will be no order as to costs.

Parties to act on advocate's communication and/or server copy of this order without insisting on prior production of the certified copy.

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.)