

15
05.03.2021
sb
Ct23

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 11747 of 2020

Md. Kabiruddin Ahammed
Vs.
The State of West Bengal & Ors.

Mr. Debasish Banerjee,
Mr. Subrata Saha
... For the petitioner.

Mr. Sk. Md. Galib,
Ms. Sujata Ghosh
... For the State.

Mr. Manas Kumar Das
... For the respondents no.7 to 9.

The petitioner says that in a suit filed by the petitioner, being T.S. 85 of 2018, the learned Civil Judge (Junior Division), 2nd Court, Kandi, Murshidabad, had passed an order on 28th March, 2018, the operative portion of the order is as follows:-

“That, both the parties i.e. plaintiffs and defendant nos. 1 to 4 are directed to maintain status quo in respect of nature, character and present possession of the suit schedule plot no.9102, 9105 property till the next date.

Plaintiffs are directed to comply the provision U/O/39 3(a) and 3(b) of the CPC. Requisites at once.

In regard to the petition U/Or 39 rule

7 of CPC filed by plaintiffs heard in presence of both the parties and kept with this record.”

This order according to the petitioner has been made absolute by the order dated 28th June, 2019. The petitioner says that violating the orders passed by the learned Civil Judge (Junior Division), 2nd Court at Kandi, Murshidabad, the defendants no. 2, 3 and 4 being the respondents no.7, 8 and 9 in the instant writ petition have attempted to encroach upon the petitioner’s property. The petitioner has sought for police assistance but the police authorities have taken no steps to implement the order.

On behalf of respondents no.1, 2, 3, 4 and 6, being the State respondents, it is submitted that the police authorities on receiving complaint from the petitioner have taken all necessary steps. The petitioner, as will appear from prayer (d) of the writ petition is seeking restoration of peaceful possession of the landed property, to protect the property and life of the petitioner and his family members from the hands of respondents no.7, 8 and 9 and his men and associates through the police authorities. The police authorities are not empowered to restore back possession of the petitioner.

On behalf of the private respondents it is submitted that the allegations made by the petitioner

have no iota of truth. The private respondents also deny the charges of having flouted the order as levelled by the petitioner.

After hearing the parties and considering the materials on record, it appears to this Court that civil disputes are sought to be remedied through orders of this Court directing the police authorities to do certain positive things which is impossible. The police authorities are, however, obliged to see that the orders passed by the subordinate judiciary are implemented and/or enforced. It is correct that the petitioner has not applied for police assistance before the Civil Court for implementation of the order but that does not absolve the responsibility of the police authorities from implementing the order passed by a competent civil Court or from taking such steps to prevent violation thereof.

In the facts and circumstances as aforesaid, I direct the respondents no.1, 2, 3, 4, and 6 to ensure that the orders passed by the learned Civil Judge (Junior Division) 2nd Court, Kandi, Murshidabad, on 28th March, 2018 and 28th June, 2019 are neither flouted nor violated.

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.)