

25
March 23, 2021.
AKG

**CALCUTTA HIGH COURT
In the Circuit Bench at Jalpaiguri**

WPA 221 of 2021

(Through Video Conference)

**Mahesh Mohali
-vs.-
The State of West Bengal & Ors.**

Mr. Joyjit Choudhury,
Mr. Rohit Agarwal,
Mr. Ajay Singhal

...for the Petitioner.

Md. Sabir Ahmed,
Mr. Hillol Saha Podder.

...for the Private Respondent Nos. 7 and 8.

Mr. Hirak Barman,
Mr. Momenur Rahman.

...for the State.

Learned advocate for the private respondents raises the issue of maintainability of this writ petition. He cites a decision reported at (2016) SCC Online Calcutta 2683.

The present writ petition has been filed for a direction upon the respondent nos. 1 to 5 to execute an order dated October 20, 2020, passed in Title Suit No. 3 of 2008 for implementation of a temporary injunction order dated July 29, 2011.

It appears that the private respondent nos. 7 and 8 as plaintiffs filed a Title Suit before the learned Civil Judge (Junior Division) at Siliguri. An application for

injunction in connection with the same was also filed. Such injunction application was disposed of by the learned Judge by an order dated 29th July, 2011 by passing the following order :-

“That both the parties to the suit are hereby directed to maintain status quo in respect of the possession, nature and character of the suit property as it stood at the time of institution of the suit till disposal of the suit.

Thus the petition U/order 39 rules 1 and 2 read with section 151 of the Civil Procedure Code filed by the plaintiff is hereby disposed of on consent without any costs.

To 26.9.11 for framing of issues.”

It appears that the writ petitioner in the present case, who was defendant in the said suit, filed an application for police help before the learned Civil Judge (Junior Division) for implementation of the said order dated July 29, 2011. The learned Judge by an order dated October 20, 2020 disposed of the said application for police help by forwarding copy of the order dated 29th July, 2011, to the concerned police authority for information.

By filing this writ petition, the petitioner sought to implement the said orders passed by the learned Civil Judge (Junior Division).

In support of implementation of the order passed by the learned Civil Court, the petitioner places reliance on the judgments reported at (2006) 4 SCC 501 (P.R. Murlidharan Vs. Swami Dharmananda Theertha Padar) and a judgment passed in C. O. 1480 of 2010.

The following lines from the judgment reported at (2006) 4 SCC 501 have been relied upon :-

“19. *A writ for “police protection” so-called, has only a limited scope, as, when the court is approached for protection of rights declared by a decree or by an order passed by a civil court. It cannot be extended to cases where rights have not been determined either finally by the civil court or, at least at an interlocutory stage in an unambiguous manner, and then too in furtherance of the decree or order.”*

It was held in the judgment passed in C.O. 1480 of 2010 that a Civil Court can grant police help for implementation of interim injunction order. There is no dispute with regard to such proposition of law.

The said judgment is not at all an authority for the proposition that an injunction order passed by a Civil Court can be implemented by a Writ Court.

The judgment reported at (2006) 4 SCC 501 also cannot help the petitioner in the present case. The petitioner has already approached the Civil Judge for police help and on such application, an order has been

passed by the learned Civil Judge. The rights of the parties have not decided by the Civil Judge in this case.

I am not concerned with the validity or propriety of the order dated October 20, 2020 passed by the learned Civil Judge, for implementation of the order dated 29th July, 2011.

It was open for the petitioner to challenge the said order before the appropriate forum if the petitioner felt aggrieved by the said order. This writ petition cannot succeed.

Accordingly, WPA 221 of 2021 is dismissed.

(Kausik Chanda, J.)