

29-06-2021

ct no. 13

Sl. 1

akd/pk

**In the High Court at Calcutta
Circuit Bench at Jalpaiguri
Appellate Jurisdiction**

**WPA 1082 of 2021
(Through Video Conference)**

**Jiwan Lal Agarwal and others
Versus
State of West Bengal and others**

Mr. Saktinath Mukherjee,
Mr. Aniruddha Chatterjee,
Mr. Surya Prasad Chattopadhyay,
Mr. Arjun Samanta,
Mr. S. Ghosh

... for the petitioners.

Mr. Amitesh Banerjee,
Mr. Supratim Dhar
... for the State respondent.

Mr. Saptangshu Basu,
Mr. S. K. Mitruka,
Mr. A. Mitruka
... for the respondent no. 4

Mr. Probal Mukherjee,
Mr. Debasish Mukhopadhyay
... for the respondent nos. 5 and 6.

Mr. Ratnanko Banerjee,
Mr. Deepan Kumar Sarkar,
Mr. A. Deb,
Mr. Ayush Jain
... for the respondent no. 7.

The writ petitioners are aggrieved by an
order of the State Consumer Disputes
Redressal Commission at its Bench at Siliguri
dated 06.01.2021 directing the Commissioner

of Police, Siliguri to enforce an interim order dated 04.06.2019.

The brief facts relevant for the instant proceeding at this stage are that the writ petitioners claim to be the allottees and/or assignees of a portion of land from the original lessee one Luxmi Township & Holdings Limited. The said Luxmi Township & Holdings Limited itself had obtained lease of 393.25 acres for a period of 99 years from the State of West Bengal.

Based on such assignment sometime in the year 2018, the writ petitioners commenced construction over the property. A civil suit came to be filed by another group of allottees who formed an association amongst themselves being Respondent No. 4 in the instant proceeding. The said civil suit being T. S. No. 133 of 2019 is pending before the learned Civil Judge (Junior Division) at Siliguri against the writ petitioners. Injunction was prayed for in such suit against the writ petitioners which is declined.

Some other allottees the Resondent Nos. 5 and 6 thereafter instituted a proceeding under the provisions of the Consumer Protection Act, 1986 before the learned State Consumer Disputes Redressal Commission being

Complaint Case No. 22 of 2019. By an order dated 04.06.2019 the State Commission restrained the respondent - Luxmi Township & Holdings Limited and others from making any construction or changing the nature and character of the property, in any manner, whatsoever.

Upon failure of the respondents therein to comply with the said order, the Commission has by a further order dated 06.01.2021, inter alia, directed the Officer-in-Charge, Matigara Police Station to ensure that the order of the State Commission dated 04.06.2021 is enforced. There is a CCTV camera installed monitoring the actions of the petitioners which is causing interference with their enjoyment of their property.

Learned senior counsel for the writ petitioners submits that any order passed by the State Commission cannot bind his clients since they are not parties to the said proceedings. The question of any enforcement of any order by any police or other authority, therefore, against the writ petitioners, does not and cannot arise. Mr. Saktinath Mukherjee, Ld. Senior Advocate, relies upon the decision of **Mangru Mahto and others Vs. Shri Thakur**

Taraknathji reported in **AIR 1967 SC 1390**

particularly Paragraph 10 thereof.

The said decision is not applicable as a proceedings before the State Consumer Disputes Redressal Commission is not a suit and hence does not attract the provisions of the Civil Procedure Code.

Parties to the instant proceeding and the civil suit as well as the proceeding under the Consumer Protection Act, 1986 are mostly allottees. There is yet another writ petition also pending before this Court with regard to the original lease itself in favour of the Luxmi Commercial which is W. P. No. 988 of 2019.

Be that as it may, Mr. Probal Mukherjee, learned senior counsel for some of the allottees in this proceeding submits that an application has been filed before the State Commission for impleading the writ petitioners as party respondents to the said proceeding. The matter is due to be taken up on 15.07.2021.

Propriety therefore demands that the petitioners make appropriate submissions as to why injunction should be vacated before the State Commission itself. There are also proceedings under Section 10 of the Contempt of Courts Act filed by the Respondent No. 4 for violation of orders of the civil court, fora under

the Consumer Protection Act etc. before the Co-ordinate Bench of this Court at its Circuit Bench at Jalpaiguri.

This Court however does not see any inaction on the part of the State.

For the reasons stated hereinabove, the writ petition must fail and is hereby dismissed.

There will be no order as to costs.

All parties are directed to act on a server copy of this order on usual undertaking.

(Rajasekhar Mantha, J.)