

OD-7

ORDER SHEET

WPO/963/2021

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
ORIGINAL SIDE

B RANGANATHA RAO
-VS-
THE STATE OF WEST BENGAL AND ORS

BEFORE:
The Hon'ble JUSTICE RAJASEKHAR MANTHA
Date : 7th October, 2021.

[Via video conference]

Appearance
Mr. Piyush Chaturvedi, Adv.
Mr. Anujit Mookherji, Adv.
...for the petitioner

Mr. Arindam Mukherjee, Adv.
Mr. Debductta Basu, Adv.
...for the respondent nos. 5 to 8

Mr. Arindam Banerjee, Adv.
...for the respondent no.7

Mr. Debasish Ghosh, Adv.
...for the State

The Court : The writ petitioner is aggrieved by the fact that despite an ad interim order of injunction dated 4th December, 2019 passed in TS No. 1722 of 2019 by the 11th Bench of City Civil Court at Calcutta, the respondents are violating the same and an application for police help is pending which has not yet been taken up. The petitioner submits that his client's application for renewal of fire licence shall be seriously prejudiced by reason of any construction activity by the respondent in a common passage.

Counsel for the private respondent submits that his client is a lawful owner of the first floor of the building and is not making any unauthorized construction or unauthorized encroachment of any part or portion of the writ petitioner's property. The private respondents dispute that the said passage is at all common and submits that the same belongs exclusively to them.

The private respondents/defendants in the suit have applied under Order 39 Rule 4 and filed an application under Order 26 Rule 9 and also an application under Order 39 Rule 7 for inspection which are stated to be pending.

In that view of the matter, it is directed that the Learned 11th Bench of City Civil Court, Calcutta shall endeavour to dispose of all applications filed by the parties as expeditiously as possible and on the first available regular working day post the puja vacation of 2021.

It is clarified that this Court has not gone into the merits of the rival claims made by the parties in respect of the property. The City Civil Court shall decide the matter independently.

Since the respondents have not used any affidavit-in-opposition, the allegations contained in the writ petition shall not be deemed to have been admitted by them.

With the aforesaid observations, WPO No. 963 of 2021 is disposed of without any order as to costs.

(RAJASEKHAR MANTHA, J.)