

17.03.2022
Court No. 19
Item no.31
CP

W.P.A. No. 691 of 2022

Tamasa Dolui
Vs.
The State of West Bengal & Ors.

Mr. Debabrata Sardar
Mr. Mrinal Kanti Maity
...for the Petitioner.

Mr. Sujit Bhunia
...for the respondent No. 7.

Mr. A.K. Guha
Mr. Naren Ghosh Dastidar
....for the State.

The petitioner has alleged that the respondent no. 7 has made some construction by encroaching upon a temporary drain situated at the premises of the petitioner, situated on L.R. Plot No. 64, pertaining to L.R. Khatian No. 3618 of Mouza-Khalore, under Bagnan Police Station, District – Howrah.

According to the petitioner, the said encroachment and illegal construction has been made violating an order of status quo passed in a civil suit.

The police authorities have filed a report from which it appears that a Title Suit is pending before the learned Civil Judge (Junior Division) 2nd Court, Uluberia, Howrah, being Title Suit No. 86 of 2019.

The police authorities have already registered Bagnan P S Case No. 52/21 on the basis of a complaint lodged by the petitioner.

Mr. Bhunia, learned advocate appearing on behalf of the respondent no. 7, submits that the construction has been made in accordance with the sanction plan. He also submits that on the allegation of such encroachment, the petitioner approached the civil court and a commissioner was appointed. A report of the commissioner has also been filed in the proceeding. Thus it is prayed that if the allegations are of violation of the order of injunction, remedy of the petitioner would be before the learned civil court.

Under such circumstances, the writ petition is disposed of with a liberty to the petitioner to approach the civil court for the alleged violation of the order of injunction as also with a prayer for police help for implementation of the order of injunction. If such applications are filed, the same shall be disposed of in accordance with law, independently by the learned civil court.

The court has not gone into the merit of the claims and counter-claims of the parties. The validity of the construction has not been decided in this proceeding.

The writ petition is, thus, disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)