

08-04-2022
ct no. 13
Sl.38
pk

**WPA 999 of 2022
(Through Video Conference)**

Khaleque Gazi @ Khalek Gazi and others
-Versus-

State of West Bengal & Ors.

Mr. Golam Mohammad,
Mr. S. Mukherjee,
....for the petitioners

Ms. Jayeeta Sinha,
Mr. Sandip Mandal
....for the State.

Counsel for the writ petitioners submits,
that notwithstanding the order of injunction dated
25th June, 2021 passed by the Civil Judge (Senior
Division), 10th Court, Alipore, in Title Suit No. 528
of 2021, the defendants are entering into the suit
property and cutting down trees.

The petitioners have thereafter applied for
police help by filing an application under Section
151 of the Code of Civil Procedure, 1908.

By an order dated 19th July, 2021, the
learned Civil Judge (Senior Division), 10th Court,
Alipore, has declined the prayer for police
assistance in absence of an application under
Order 39, Rule 2A, of the Code of Civil Procedure,
1908.

Counsel for the petitioners submits that the order of injunction is continuing even as on date.

This Court notes that the court below is absolutely justified in refusing to entertain an application under Section 151. However, it is to be noted that the Civil Judge (Senior Division), 10th Court, Alipore has also held in the order dated 19.07.2021 that the involvement of police personnel would create some sort of stigma against the defendants in society.

Any stigma that a defendant might have to face for violation of an order of a Civil Court, resulting in the filing of a complaint against that violation in the Civil court itself, if effectively inconsequential.

The writ petitioners shall apply formally before the Civil Judge (Senior Division), 10th Court, Alipore under Order 39, Rule 2A, of the Code of Civil Procedure.

In the meantime, the Officer-in-Charge, Bishnupur Police Station, shall visit the premises and warn the defendants against violating the order of injunction passed by the Civil Court mentioned hereinabove.

Parties may take all appropriate steps available to them under the CPC in respect of the subject matter of the suit.

With the aforesaid observations, the writ petition is disposed of.

There will be no order as to costs.

(Rajasekhar Mantha, J.)