

02.08.2022
Court No. 19
Item no.369
CP

W.P.A. No. 2828 of 2021

Jahangir Alam & ors.
Vs.
The State of West Bengal & ors.

Mr. Sanjib Seth
...for the petitioners.

Mr. Lutful Haque
Mr. Gulam Karim Chowdhury
....for the private respondents.

Affidavit of service is taken on record. Despite service, none appears on behalf of the State respondents.

The petitioners pray for a direction upon the police authorities to ensure implementation of the order of injunction on the basis of the orders passed by the learned Civil Judge (Junior Division), 1st Court, Kandi, Murshidabad in Title Suit No. 152 of 2015 dated December 10, 2018 and November 18, 2020. It is the specific contention of the petitioners that despite these two orders upon the police authorities to implement the order of injunction which was passed in the Misc. Appeal filed by the petitioners, the police authorities have not rendered any assistance.

It is submitted by the respondent nos. 4 to 6 that the order granting police help was passed only

because at the relevant point of time the defendants in the suit had not challenged the order of status quo passed by the lower appellate court in the Misc. Appeal.

It is next contended that C.O. No. 3568 of 2018 was filed on July 2, 2019 challenging the order of status quo passed in the Misc. Appeal. The said revisional application was disposed of with certain observations which would, *inter alia*, go to show that the direction upon the police authorities to implement the order of injunction should not be passed by this court. It is next submitted that as this court had made specific observations with regard to the points which were missed by the lower appellate court while adjudicating the Misc. Appeal, further direction upon the police authorities for implementation of the order of would be in conflict with the order passed in CO 3568 of 2018.

Heard the parties. The petitioners filed a suit for declaration and injunction. The prayer for ad interim injunction was refused. Aggrieved, the petitioners filed Misc. Appeal No. 4 of 2016 before the learned Additional District Judge, Kandi, Murshidabad. An order was passed on May 25, 2017 in favour of the petitioners, *inter alia*, directing the parties to maintain status quo with regard to the land in question. The Misc. Appeal was disposed of

with a direction upon the learned Trial Judge to conclude the suit within a limited period. An application for police help for implementation of the order of injunction was filed before the learned Trial Judge. The said application was rejected by the learned Trial Judge. Aggrieved, the petitioners approached this court under Article 227 of the Constitution of India.

The revisional application was allowed and the learned trial court was directed to pass necessary orders granting police help to implement the order of status quo passed in the Misc. Appeal. Accordingly, an order was passed on December 10, 2018 by the learned Trial Judge directing the police authorities to implement the order of injunction and to ensure that the defendants in the suit do not cut down the trees or change the nature and character of the suit property. Once again, the petitioners alleging violation of the order of injunction and non-implementation of the order by the police approached the learned Trial Judge. By an order dated November 18, 2020, the learned Trial Judge passed an order upon the Officer-in-Charge, Burwan Police Station to take all measures to ensure that the sanctity of the orders of the High Court was preserved.

The contentions of the respondent nos. 4 to 6 are not accepted for the following reasons:

- a) The order of status quo passed in Misc. Appeal was neither set aside, nor varied or vacated by the High Court. The order of status quo has attained finality.
- b) The revisional application was disposed of with certain observations, which did not have any impact on the order of status quo.
- c) The order granting police help on two occasions has not been challenged before this court. Rather a coordinate bench of this court had directed the trial court to pass necessary orders for police help.
- d) The order upon the Officer-in-Charge, Burwan Police Station directing him to take measures so that the sanctity of the order of the High Court is preserved with further direction upon the police authority to keep a tight vigil on the suit property with utmost care and caution, had been passed after the revisional application being C.O. 3568 of 2018 had been disposed of. The respondents have not challenged the said order.

Under such circumstances, when the direction upon the police authorities for implementation of the order of status quo has neither been challenged nor

varied or vacated by any court of law, the police authorities are duty bound to implement the same.

The Officer-in-Charge, Burwan Police Station is directed to comply with the directions of the learned trial court and ensure that the order of status quo is implemented in its letter and spirit.

This order shall not be construed as a declaration on the correctness of the allegations of violation of the order of status quo. Such point shall be decided by the appropriate court as and when the same is raised by the petitioner.

The writ petition is disposed of.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)