

07.06.2022  
Court No. 19  
Item no.19  
CP

WPA No. 11896 of 2021

Madanmohan Dey  
Vs.  
The State of West Bengal & ors.

Mr. Pratip Mukherjee  
Mr. Omar Faruk Gazi

....for the petitioner.

Mr. Amitesh Banerjee  
Ms. Ipsita Banerjee

.....for the State.

The writ petition has been filed challenging inaction on the part of the Basirhat Police Station in failing to open up the padlock of the premises belonging to the petitioner. A prayer has been made for a direction upon the concerned police station to hand over the peaceful and vacant possession of the property of the petitioner. The property which is the subject matter of dispute is a flat measuring about 1500 Sq. Ft. on the 2<sup>nd</sup> floor of a three-storeyed building situated at Dag No. 587 at Mouza – Mirzapur.

The petitioner submits that on the orders of the Director General of Police, Kolkata, West Bengal. The Inspector-in-Charge, Basirhat Police Station i.e., the respondent no.3 had sealed the premises almost

7 years ago and the petitioner is suffering losses for not being able to use his own property.

From the affidavit-in-opposition filed by the respondent no. 3, it appears that the premises was sealed on the basis of an order of this court passed in WP 4059(W) of 2015. The relevant portion of the order of this court is quoted below:

“Heard parties. Since there is virtually no answer as to who had issued the certificates, in the interest of justice, I direct the Director General of Police, West Bengal, Kolkata and the Commissioner of Police, Bidhannagar Police Commissionerate, Kolkata, the respondent nos. 8 and 11 to seal the offices of the respondent no. 16 at Lake Town, Kolkata and Jhargram, West Midnapore, as mentioned in page 15 of the writ petition and also the other offices in the State within 24 hours from the date of receiving a copy of the order downloaded from the official server of the High Court. After the office is sealed, SEBI, CBI, the State authorities and the Enforcement Department shall make an inventory of the documents and/or records. Since it appears from the submission of the learned senior advocate for the SEBI, that in spite of the orders of attachment, bank accounts have been opened and operated and as the learned senior advocate for the respondent no. 16 is clueless about the issuance of certificates and consequently where the money has been deposited, the Investigating authorities, be it SEBI, CBI, Enforcement Department or State authorities shall attach the bank accounts forthwith in the greater interest of the depositors. The respondent no. 16 within 48 hours from the date of communication of this order shall intimate each of the respondent authorities whether they have opened fresh bank accounts and if the answer is in the affirmative, the said investigating agencies shall also take steps for attachment of the said accounts forthwith. It is made clear that this order is passed in the interest of justice and the point of maintainability shall be

heard on the next date of hearing. So far as the issue of attachment of the properties is concerned, since it is submitted on behalf of the respondent no. 16 that a proceeding is pending before the High Court and an order of restraint has been passed, no order is passed to that effect.”

Thus, according to Mr. Banerjee, learned senior standing counsel for the State, the respondent no. 3 neither has the power nor the authority to open up the premises. More so, the premises was sealed on the direction of this court. The petitioner had let out the premises to MPS group and the premises was sealed in aid of an investigation.

The investigation is not being done by the State police and, as such, the respondent no. 3 cannot be directed to open up the lock.

Having heard the learned advocates for the respective parties, this court is of the view that the remedy of the petitioner would be to either approach the concerned investigating agency which is investigating into the chit fund scam relating to MPS group, for appropriate orders or the courts taking up such matters.

It is not possible for either this court or for the police authorities to open up the premises. The development in the investigation against the MPS group and whether the premises should remain sealed in view of the pending cases against the MPS

group, are matters to be decided by the appropriate investigation agency or the special court before which the cases may be pending.

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.)**