

4.8.2022
Sl.No.5
sn

W.P.A. No. 11480 of 2022
Abdul Khaleque Shaikh @ Abdul Khaleque
Versus
The State of West Bengal & Ors.

Mr. Ibrahim Shaikh
Me. Benazir Shaikh

... for the Petitioner.

Mr. Sutanu Chakraborty
...for the State-respondents.

Mr. Gausul Alam ..for the respdts.5-8

The petitioner alleges that during the pendency of the appeal from a preliminary decree before the High Court, the respondent nos. 5 to 8 have raised certain constructions, thereby violating the order of status quo that was passed in the partition suit.

It is submitted that the suit for partition was filed before the learned Civil Judge, Senior Division, Krishnanagar, Nadia, which was registered as Title Suit No. 14 of 2015. An application for injunction was disposed of by directing the parties to maintain status quo with regard to the nature, character and possession of the suit property, till the disposal of the suit.

It is alleged that the suit was decreed in a preliminary form and the respondent nos. 5&6 preferred a First Appeal before the Court which was been registered as F.A. 165 of 2019. The First

Appeal is still pending. The application for stay was disposed of by the Division Bench of this Court with a direction upon the Trial Court to appoint a Partition Commissioner. It was further directed that the Partition Commissioner should continue with the partition work and submit the report to the trial court. The trial court was restrained from passing the final decree. The appeal is still pending.

The petitioner alleges that taking advantage of the pendency of the appeal, the respondent nos. 5 to 8 continued to make certain constructions. A complaint was made before the Nakashipara Police Station, but the police authorities failed and neglected to implement the order of status quo passed by the learned civil court.

The learned advocate for the respondent nos. 5 to 8 submits that no construction had been made. Only some repairing work was done. It is further submitted that the respondents are not carrying out any construction or repairing work at present.

The police report is taken on record. It appears that on the basis of several complaints lodged by the petitioner, enquiries were made and prosecution against the respondents had been submitted, directing them to maintain peace and tranquillity.

On March 17, 2022, on the basis of the written complaint of the petitioner, Nakashipara

Police Station Case No. 167 of 2022 was registered against the respondent no.5 and two others. On completion of the investigation, charge sheet has been filed.

Again, on the complaint of the petitioner which was received through post, a prosecution under Section 107 and 116(c) of the Code of Criminal Procedure was submitted asking the respondents to refrain from commission of further illegal activities. On another complaint of attempt to construct a concrete building, the police authorities went to the spot and stopped the construction work. Prosecution under Section 107 and 116 (c) of the Code of Criminal Procedure was submitted against the respondent nos. 5 to 8.

As the construction has already been stopped by the police authorities, the police authorities shall continue a strict vigil in order to ensure that no further construction takes place.

With regard to the violation of the order of injunction, the petitioner is at liberty to approach the civil court for appropriate orders.

The police authorities shall implement the order of status quo in its letter and spirit. Both the parties are bound to comply with the order of status quo.

This writ petition is disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)