

16.08.2022
Sl. No.7(SL)
srm

W.P.A. No. 11705 of 2022

Laila Bewa

Versus

The State of West Bengal & Ors.

Mr. Sarwar Jahan,
Mr. Anisur Rahman

...for the Petitioner.

Mrs. Sipra Majumder,
Ms. Sangeeta Roy

...for the State-respondents.

Mr. Rwitendra Banerjee,
Mr. Shibasis Chatterjee

...for the Respondent Nos.9 to 11.

The petitioner prays for police help to complete the construction of a dwelling house on Plot No.1577/6323 within Mouza-Garibpur, Police Station-Domkal, District-Murshidabad.

The police report is taken on record. It appears that there are two civil suits pending between the parties over the selfsame plot. Initially, in the suit filed by the respondent Nos.9 to 11, an order of *status quo* had been passed. Subsequently, by an order dated June 7, 2022, the suit has been stayed and the interim order has not been extended.

Mr. Banerjee, learned Advocate appearing on behalf of the respondent Nos.9 to 11, submits that at present, there is

neither any order of injunction nor any preventive order with regard to the activities and possession of the suit property. Mr. Banerjee further submits that the allegation against the respondent Nos.9 to 11 of disturbing the petitioner's construction, was not correct. They had raised an objection during the subsistence of the order of *status quo*, but at present there was no resistance.

The petitioner claims that when there is no such ad interim order and the suit filed by the respondent Nos.9 to 11 has been stayed, the petitioner must be allowed to complete the construction on the basis of the permission granted by the concerned gram panchayat.

Be that as it may, without going into the question of right, title and possession of the parties in respect of the suit property and keeping all the questions raised by either of the parties before the learned civil court open, this Court directs that the petitioner may pray before the appropriate authority for police help at his own costs, in case the respondent Nos.9 to 11 try to disturb the construction of the petitioner. However, such prayer for police help to complete the construction, if made and if allowed by the authorities, shall also be subject to any further order that may be passed in the civil suits. This order shall not be construed as a declaration of the petitioner's

right to construction or as a declaration of her right over the suit property.

This Court has also not expressed any opinion on the merits of the claim of the petitioner with regard to the construction, which is going on. Needless to mention that the construction shall also be subject to the terms of the permission given and the parties are at liberty to raise such issue before the appropriate authority.

The writ petition is, thus, disposed.

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.)