

24.08.2022
Sl. No.172(ML)
srm

W.P.A. No. 15032 of 2022
Mohammed Ali Noor Molla
Versus
The State of West Bengal & Ors.

Mr. Shibaji Kumar Das
...for the Petitioner.

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

Mr. Biswaroop Bhattacharya,
Mr. Swarajit Dey
...for the Respondent No.7.

Affidavit-of-service is taken on record.

The allegation of violation of the order of ad interim injunction by the respondents which have been urged in this proceeding shall be agitated and urged before the learned civil court. It appears that the petitioner has already filed an application under Order XXXIX Rule 2A of the Code of Civil Procedure with such allegation. These are matters of evidence, which cannot be decided in this writ proceeding.

Mr. Bhattacharya, learned Advocate appearing on behalf of the respondent No.7, submits that the respondent No.7 has neither received a copy of the plaint nor the copy of the injunction application. The respondent Nos.7 is not

aware of any proceeding and as such only a boundary wall was attempted to be constructed in order to preserve the property.

The report filed by the Inspector of Police, Techno City Police Station, indicates that when the police authorities went to the schedule property, no construction work was found at the relevant time. The said issue was diarised *vide* GD Entry No.1456 dated June 27, 2022. Whether the plot over which the alleged construction is going on is the plot involved in the suit or not and whether the respondent No.7 has been developing the property upon being so authorised by the respondent No.5, are matters of evidence and will be decided in suit. The question of violation of the order of ad interim injunction shall also to be decided in the suit. However, as there is an order of *status quo* with regard to the nature, character and possession, the police authorities shall implement the same in its letter and spirit until and unless the said order is stayed or varied or set aside by the competent court.

No construction in any form shall be permitted till the ad-interim order subsists.

This order shall not be construed as a decision of the Court on the correctness of the allegations and statements made by the petitioner about the violation of the ad-interim order.

Thus, the police authorities shall ensure that the order of *status quo* is implemented.

The writ petition is, thus, 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.)