

17.08.2022
Sl. No.4(SL)
srm

W.P.A. No. 18404 of 2022

Asadul Islam & Anr.

Versus

The State of West Bengal & Ors.

Mr. Rabiul Islam,
Mr. Raju Mondal

...for the Petitioners.

Mr. Susanta Pal,
Ms. Ananya Neogi

...for the State-respondents.

Affidavit-of-service is taken on record. Despite service, none appears on behalf of the respondent Nos.6 to 9.

The petitioners allege that the respondent Nos.6 to 9 have been raising a construction in violation of the ad interim order passed by the learned civil court on June 18, 2022. On the basis of such allegation, a complaint was filed before the Inspector-in-Charge, Domkal Police Station.

Although the order of *status quo* is not available before this Court, an information slip is annexed to the writ petition, from which it appears that the defendants in the said suit were directed to maintain *status quo* with regard to the nature and character of the suit property and they were also restrained from raising any new construction in the suit property or transferring the same to any third party till December 19, 2022.

Alleging violation of the said order the petitioners approached the police authorities. The police authorities made an enquiry. Apprehending breach of peace, prosecution under Sections 107 of the Code of Criminal Procedure was submitted against the defendants in the suit. On two occasions general diaries were entered and the police authorities visited the suit property in order to ensure that no construction work was being carried on by the defendants. Even on August 10, 2022, the police authorities visited the locale and found that no construction was going on.

The petitioners have refuted such contentions of the police authorities and submit that the construction work is continuing.

Having heard the learned Advocates for the respective parties, this Court is of the view that the allegation of violation of the order of injunction, must be raised before the learned civil court. It is a matter of evidence. The disputed questions of facts which have arisen cannot be decided in this proceeding. The police authorities visited the suit property to ensure that no construction was being raised. Apprehending breach of peace, prosecution under Section 107 of the Code of Criminal Procedure had been submitted against the defendants. It does not appear that the petitioners have approached the learned

civil court either with a prayer for police assistance for implementation of the order of ad interim injunction or with the allegation of violation of the ad interim order.

Under such circumstances, the writ petition is disposed of with a direction upon the Inspector-in-Charge, Domkal Police Station to ensure that the ad interim order of injunction is not violated by any of the parties, till the same subsists. The other issues which the petitioners have raised with regard to the alleged construction as opposed to the specific contention of the police authorities that no construction has been going on at present, shall be decided by the learned civil court, on contest if the petitioners approach the learned civil court.

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.)