

02.02.2023.
Court No.13
Item No. 10
ap

W.P.A. No. 58 of 2023
Sri Manoj Kumar Karen
Versus
The State of West Bengal & Ors.

Ms. Pampa Dey Dhabal,
Mr. Nikhil Kumar Gupta.

...For the petitioner.

Affidavit-of-service filed in Court today be taken
on record.

The petitioner seeks execution of an ex parte
decree dated 14th September, 2018 passed by the
learned Civil Judge (Junior Division) 6th Court, Alipore.

The respondent no.4 in the said writ application,
namely, Chandi Doulatabad Block Prathamick Sastha
Kendra is represented by Dr. Apurba Biswas in
person.

It is submitted by Dr. Apurba Biswas, whose
Health Center has suffered a decree, that an
application for recall of the ex parte decree has been
filed in the Court below, inter alia, on the grounds that
the notice under Section 80 of the Code of Civil
Procedure had not been given.

Ms. Dhabal, Counsel for the petitioner submits
that the Health Center is encroaching upon the
petitioner's land and the police ought to be directed to
intervene in the matter.

This Court is of the clear view that the petitioner's remedy is in the Court below to seek execution of the decree. The Court below shall first consider the application filed by the respondents herein and then pass appropriate orders, inter alia, under Order XXI of the Code of Civil Procedure, 1908.

It is, however, made clear that Bishnupur Police Station shall strictly comply with any order that may be passed on them by the Court below.

The report of the Bishnupur Police Station dated 10th January, 2023 in the form of instructions to the State Advocate is kept with the record.

With the aforesaid directions, the instant writ petition shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)