

28-03-2023

ct no. 13

sl. 8

sp

WPA 4877 of 2023

Rafikul Islam Mondal

-Versus-

The State of West Bengal & Ors.

Mr. K.M. Hossain,
Ms. Keya Sutradhar

...for the petitioner

Mr. Malay Krishna De,
Mr. Biswajit Dutta

...for the State

Mr. R.N. Chakraborty

....for the Municipality

Despite service of notice, the private respondents are not represented.

Affidavit of service filed in Court is taken on record.

The petitioner complains that the learned Civil Judge (Sr. Division), 3rd Court at Alipore, has ordered injunction on September 20, 2022 in T.S. No. 1309 of 2022 against the private respondents from dealing with the suit property in question. Status quo as regards the nature and character and possession of the suit property has also been directed.

It is submitted that the private respondents are continuing to violate the said order and are

effecting construction of a super market. It is also submitted that the local municipality has granted a sanction plan for construction of a residential complex and in breach thereof, the private respondents are constructing a commercial complex. A stop work notice has been issued by the municipality on June 13, 2022.

The Rabindranagar Police Station has submitted a report dated 6th March, 2023, which is taken on record

There is a long standing dispute between the petitioner and the private respondents. The police have registered as many as 4 FIRs which have resulted in 3 charge sheets being Rabindranagar PS Case No. 33/22 dated 17.02.2022, Rabindranagar PS Case No. 335/22 dated 12.12.2022 and Rabindranagar PS CS No. 18/23 dated 01.02.2023 and Rabindranagar PS CS No. 39/23 dated 28.02.2023. Prosecution under Section 107 of the Cr. P.C. has been registered by the police on three several occasions. There is clear evidence before this Court of misconduct by the private respondents.

The Rabindranagar Police Station shall ensure that there is absolutely no construction whatsoever on the suit property. The orders of the Civil Court shall be very strictly complied with.

The police shall post a picket comprising of three constables at the locale for a period of 4 weeks at the cost of the petitioner. The quantum of cost shall be communicated to the petitioner immediately. The deployment shall take effect after payment of cost.

Needless to mention, the police shall comply and take notice of any other orders that may be passed by the Civil Court.

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

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)