

27.03.2023.
Court No.13
Item No. 17
ap

W.P.A. No. 7010 of 2023
Sandipan Bera
Versus
The State of West Bengal & Ors.

Mr. Soumen Kumar Dutta,
Mr. Sabyasachi Bhattacharjee.
...For the petitioner.

Mr. Debasish Ghosh,
Mr. Prantik Garai.
...For the State.

Mr. Apratim Bhattacharya,
Mr. Arpan Guha.
...For the private respondents.

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

The petitioner is aggrieved by the order passed
by the learned Executive Magistrate, Contai under
Section 144(2) of the Code of Criminal Procedure,
directing the private respondents to maintain status
quo over the suit plot that no construction is allowed
until further orders.

This Court notes without hesitation that the
disputes between the petitioner and the private
respondents are completely and wholly civil in nature.

The private respondents claim that the subject
property is not partitioned.

The learned Executive Magistrate, Contai should
have relegated the parties to a civil dispute. His
jurisdiction under Section 144(2) of the Code of
Criminal Procedure is to ensure that there is no

breach of peace in the area. He should not pass orders akin to a Civil Court. The learned Executive Magistrate, Contai has clearly exceeded his jurisdiction.

In those circumstances, the said order dated 10th February, 2023 passed by the learned Executive Magistrate, Contai shall stand quashed and set aside.

The petitioner and the private respondents may approach the Civil Court for ascertaining their civil rights in respect of the property.

The Inspector-in-charge, Contai Police Station shall, however, ensure that there is absolutely no breach of peace in the area. The petitioner as well as the private respondents undertake before this Court not to create any breach of peace in the locale.

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.)