

19.04.2023
Court No.13
Item No.7
AP

WPA 8781 of 2023

**Debasish Karmakar
Vs.
State of West Bengal and Ors.**

Mr. Omar Faruk Gazi

... For the Petitioner.

Mr. A. Mondal
Ms. Srilekha Bhattacharyya

... For the State.

Mr. A.K. Routh
Ms. Ananya Mondal

... For the Private Respondent.

1. The petitioner complains of alleged inaction on the part of the Baguiati Police in enforcing an order of the Civil Judge (Senior Division), 1st Court at Barasat passed in TS No.653 of 2012.

2. The Court below, by an order dated 12th August, 2016, directed the parties not to create any third party interest and that the defendant no.1/writ petitioner shall have reasonable access through the common staircases and other common areas of the suit property.

3. The order came to be dealt with by a Coordinate Bench in CO No. 944 of 2018. By an order dated 10th July, 2018 This Court stayed the order dated 12th August, 2016 passed by the Civil Court to a limited extent. It was specifically allowed that the writ petitioner/defendant and the private respondent would

have reasonable access to the common staircase and the other common areas in the suit property.

4. The private respondent submits that the staircase on the ground floor leading to the first floor, where the writ petitioner/defendant resides, is his exclusive property. The writ petitioner may not have access to the same. He has access to the first floor from the northern side of the premises.

5. This Court is of the prima facie view that there is a misconstruction by the private respondent, of the order of the Civil Judge (Senior Division), 1st Court at Barasat as modified by this Court in its order dated 10th July, 2018 (supra). However, since the police are not expected to interpret the orders passed by the Civil Court, the writ petitioner may file an application under Order 39 Rule 2A in the Court below and complain of violation.

6. It is submitted by Mr. Routh, learned counsel for the private respondent that an application for contempt of the order dated 10th July, 2018 as framed on January 2019 is pending.

7. The parties may take appropriate steps in accordance with law.

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

9. There shall be no order as to costs.

10. Report of the Inspector-in-Charge, Baguiati Police Station dated 18th April, 2023 is taken on record.

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

(Rajasekhar Mantha, J.)