

02.05.2023
Court No.13
Item No.27
AP

WPA 9110 of 2023

Tarak Nath Dey
Vs.
The State of West Bengal and Ors.

Mr. Supriya Chattapadhyaya
Mr. Sudip Kumar Maiti

... For the Petitioner.

Ms. Sweta Mukherjee
Ms. Sanjukta Samanta

... For the State.

Mr. Abu Siddique Mallik
Mr. Gaurab Ghosh

... For the Respondent No.5.

1. Affidavit of service filed in Court today is taken on record.

2. The petitioner is aggrieved by an order of the Executive Magistrate issued under Section 144 of the CrPC directing the petitioner not to effect any construction contrary to law. Under the garb of the said order, it is alleged that the Khanakul Police has restrained the petitioner from effecting any construction whatsoever.

3. Admittedly, there are proceedings for preemption under the WBLR Act of 1955 being Misc. Case No.25 of 2019 and Misc. Case No. 26 of 2019 before the learned Civil Judge (Junior Division), 1st Court at Arambagh, Hooghly and Misc. Appeal No.51 of 2023 before the Additional District Judge, 1st Court at Arambagh, Hooghly in respect of the land in question.

4. In the event, the construction by the petitioner is contrary to law, the private respondent may approach the local Panchayat or seek civil or statutory remedies in this regard. Interim relief may also be sought in the pending civil suits.

5. The Khanakul police have no authority to prevent any construction or much less enter into a private dispute between the petitioner and the private respondent. Khanakul Police shall only ensure that there is absolutely no breach of peace in the area.

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

7. Since the respondents have not used any affidavits, the allegations made in the writ petition shall not be deemed to have been admitted by them.

8. There shall be no order as to costs.

9. The report of the Officer-in-Charge, Khanakul Police Station, Hooghly Rural District, is taken on record.

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

(Rajasekhar Mantha, J.)