

10.05.2023  
Court No.13  
Item No.6  
AP

**WPA 15505 of 2022  
With  
IA NO: CAN 1 of 2022**

**Subhanath Rauth  
Vs.  
The State of West Bengal and Ors.**

Mr. Kunal Ganguly

... For the petitioner.

Mr. Debasish Ghosh  
Mr. Debopriya Chatterjee

... For the State.

Mr. Ayan Banerjee  
Ms. Debjani Sengupta

... For the Respondent Nos.8 to 11.

1. The petitioner complains that the private respondents have violated the order of injunction dated 8<sup>th</sup> July, 2020 passed by the Civil Judge (Senior Division), Uluberia, Howrah in Title Suit No.61 of 2020. There was a direction upon the Rajapur PS by the Court below in its order dated 5<sup>th</sup> July, 2021 to ensure that the order of injunction is not violated.

2. It is submitted by the petitioner that the order of injunction is being violated and the Rajapur PS is a silent spectator in this regard.

3. The Officer-in-Charge, Rajapur PS, Howrah Rural District has filed a report dated 10<sup>th</sup> May, 2023 stating that there is continuous disturbance between the petitioner and the private respondents and altercations take place on a regular basis.

4. The private respondents submit that there was a preexisting permanent construction at the very place, which is the subject matter of the civil suit, even before the order of injunction passed by the Civil Court. The same, according to the private respondents, is confirmed from a letter dated 10<sup>th</sup> September, 2020 addressed by the petitioner to the C.D.P.O., Monshatala, Uluberia, Howrah.

5. This Court is of the view as to whether the construction existed before or after the injunction is a question of fact that is required to be addressed by the Court below. Rajapur PS shall submit a detailed report in the Court below after making due enquiries indicating as to whether the construction on the said premises was existing before July 2020 or otherwise. Let such report be filed by the Rajapur PS within a period of ten days from date.

6. The petitioner may take out an appropriate application complaining of violation of the order of injunction of the Court below, inter alia, under Order 39 Rule 2(a) of the CPC.

7. The private respondents shall be heard and may file an appropriate objection.

8. The Court below shall consider the report of the police, the petitioner's application and the objection of the private respondents and also the report of an advocate

commissioner, if so deemed necessary, before finally deciding the application under Order 39 Rule 2(a) of the CPC as indicated hereinabove.

9. Rajapur PS shall strictly comply with any order that has been passed or may be passed by the Civil Court in this regard.

10. The Report of the Officer-in-Charge, Rajapur PS, Howrah Rural dated 10<sup>th</sup> May, 2023 is kept with the record.

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

12. In view of the disposal of the main writ petition, connected applications, if any, shall also stand disposed of.

13. There shall be no order as to costs.

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

**(Rajasekhar Mantha, J.)**