

03.01.2023.
Court No.13
Item No. 46
pk

W.P.A. No. 19866 of 2022

**Sri Biswajit Ghosh
Versus
The State of West Bengal & Ors.**

Mr. Sundar Gopal Bhattacharyya
...For the petitioner.

Mr. Subhabrata Datta,
Mr. Banibrata Datta
... For the State.

Mr. Falguni Bandyopadhyay,
Ms. Riya Ballav
... for the respondent no. 5.

The petitioner complains that despite order dated 2nd July, 2022 in Pre Misc. Case No. 29 of 2022 passed by the Civil Judge (Junior Division), 1st Additional Court, Alipore, the private respondents are effecting construction in violation thereof.

Counsel for the private respondent no. 5 submits that his client is not effecting construction or violating any order. Photographs annexed to the writ petition do not support the contentions of the private respondent.

Admittedly, there are no specific directions on the Kolkata Leather Complex Police Station to enforce the injunction. The petitioner has filed an application under Section 151 of the C. P. C. seeking police assistance.

In view of the above, this Court directs that the private respondents shall not effect any construction

on the property-in-question and the O. C., Kolkata Leather Complex Police Station shall ensure strict compliance of the same. A detailed report shall be submitted by the O. C., Kolkata Leather Complex Police Station to the court below within a period of one week from date. The petitioner's application under Section 151 shall be heard and disposed of by the court below within a period of one month from date. The petitioner shall also be entitled to apply under Order 39 Rule 2A in the court below.

Since the matter is already fixed tomorrow(04.01.2023) in the court below, the date shall stand adjourned until after receipt of the report from the Kolkata Leather Complex Police Station.

The private respondents shall be entitled to file objection to the application of the petitioner under Section 151 and Order 39 Rule 2A.

The court below shall proceed with the application uninfluenced by any observations made herein above.

Since no affidavit has been used by the respondents, the allegations made in the writ petition shall not be deemed to have been admitted by this Court.

With the aforesaid observations, the writ petition is 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.*)