

09-02-2023  
ct no. 13  
Sl.8  
sp

**WPA 21471 of 2021**

Uttam Karak

**-Versus-**

The State of West Bengal & Ors.

Ms. Juin Dutta Chakraborty

... for the petitioner

Mr. Rajarshi Halder,  
Mr. Chrantan Sarkar,  
Mr. Niraj Kr. Singh

...for the respondent no. 4

The writ petition is entertained notwithstanding suppression of material fact in the interest of the litigant and the interest of justice

The petitioner prays for police help to enforce an order of injunction passed by the learned Civil Judge (Jr. Division), 1<sup>st</sup> Court, Barasat, North 24 Parganas in T.S. No. 104 of 2021 on February 5, 2021. The petitioner has applied before the Court below under Section 151 of the C.P.C. for a direction upon the Baguiati Police to enforce the order of injunction.

The Court below has been deferring the hearing of the application when the petitioner has been asking for preponement and an urgent hearing. Post refusal of preponment by the learned Civil Judge as above, the petitioner has filed an application under Article 227 of the Constitution of India being C.O. No. 1413 of 2021.

Notice has been issued by a Co-ordinate Bench of this Court on the revisional application.

The pendency of the aforesaid revisional application has been suppressed in the instant writ petition, which has been affirmed on December 23, 2021.

Across the bar, Ms. Juin Dutta Chakraborty, learned counsel appearing for the petitioner had taken time yesterday to obtain instructions from his client. It is submitted today that her client had not informed her of the pendency of the revisional application. It is further submitted today that the writ petitioner has instructed the learned Advocate on record of the petitioner to withdraw C.O. 1413 of 2021.

Learned counsel for the petitioner undertakes to file written instructions in this regard.

Admittedly, there have been civil disputes between the petitioner and the private respondents for a substantial period of time. The police cannot be blamed of inaction since there is no specific direction on them by the Civil Court. It is for this specific direction that the petitioner approached the Civil Court and subsequently the High Court in the revisional jurisdiction as mentioned hereinabove.

In view of the above and on the undertaking of the petitioner to withdraw C.O. 1413 of 2021, this Court directs the Baguiati Police Station to strictly

enforce the order of injunction passed by the learned Civil Judge (Jr. Division), 1<sup>st</sup> Court, Barasat, North 24 Parganas on February 5, 2021.

A report shall be submitted by the Baguiati Police Station to the Civil Court as regards the allegation of the petitioner that the private respondents are violating the order of injunction and also the current state of affairs in respect of the suit property.

Let such report be filed within a week from date.

The private respondents are represented. It is submitted on their behalf that they are not violating the order of injunction.

If the private respondents/defendants are aggrieved by the order of injunction, they may take steps in accordance with law.

The Baguiati Police Station shall comply with any direction on them by the Civil Court or as may be modified or altered by any higher forum.

This Court, however, is inclined to impose cost on the petitioner assessed at Rs. 5,100/- for suppression of material fact as already indicated hereinabove. Costs shall be paid to the State Legal Services Authority.

Let evidence of payment of costs be produced before the Baguiati Police Station as a precondition for enforcement of this order.

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

The instructions of the Baguiati Police Station dated 01.02.2023, addressed to the learned Government Pleader, is kept with the record.

There shall be no order as to costs.

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

**(Rajasekhar Mantha, J.)**