

10 28.08.2023  
NB Ct. 14

**WPA 20755 of 2023**

Kalyan Sarbajna  
Vs.  
The State of West Bengal & Ors.

Mr. Malay Bhattacharyya,  
Mr. S. Ghosh,  
Ms. Sudipa Sengupta.  
...for the petitioner.

Mr. Amal Kr. Sen Id AGP.,  
Mr. Lal Mohan Basu.  
....for the State.

Mr. Kajal Ray.  
...for the private respondent.

This is an application under Article 226 of the Constitution of India praying for direction upon the respondent authorities to comply with the order of status quo passed by the learned Civil Judge (Senior Division), Serampore, Hooghly in T.S. Case No.140 of 2023 and to ensure the peaceful possession of the petitioner over the land in question.

Certified copy of the order dated 22.06.2023 as filed in Court by the private respondent is taken on record.

Report filed on behalf of the State is also taken on record.

The circular dated 04.05.2023 issued by the West Bengal Police Directorate, Bhabani Bhavan, as filed in Court, is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the land in

question. It forms a part of a bigger plot, which was partitioned between the petitioner and the private respondents. However, the private respondents are now encroaching beyond the settled portion and are illegally constructing a building in such a manner that even the doors and windows of the existing building is getting covered. The learned Civil Court directed the parties to maintain status quo. Despite this, the same is being violated. The petitioner has already filed an application under Section 151 of the CPC, which is still pending. The next date for hearing is 31.08.2023. In the meantime, the petitioner has asked for police help to comply with the order of status quo passed by the learned Civil Court but they have done nothing in this regard.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. There is a civil dispute pending between the adverse parties. It appears that an order of status quo was granted by the learned Civil Court in a civil suit being T.S. 140 of 2023 and a proceeding under Section 144(2) of the Code filed earlier had been dismissed.

Learned counsel appearing on behalf of the private respondents denies the allegations made in the writ petition and submits as follows. The petitioner has prayed for a similar relief for which he had already filed an application before the Civil Court under Section 151 of the CPC. The petitioner has no right to restrain the private respondents from doing construction work on their own piece of land. However, without prejudice, pending the decision before the learned Civil Court, the private respondents are not conducting any construction work.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition, the report filed by the State, a copy of the impugned order and the circular issued by the West Bengal Police Directorate.

It appears that the learned Civil Court directed the parties to maintain status quo.

It is alleged that in spite of these, the private respondents are continuing with their illegal construction work, which is denied by the private respondents.

The prayer to grant police help for complying with the order of the learned Civil Court in terms of Section 151 of the CPC is pending. However, it is the contention of the petitioner before the same application could be heard, the private respondents are bent upon violating the order and are doing illegal construction work.

In view of the above, let the local police authorities takes steps to ensure that no breach of peace takes place at the locale and that no order of any Civil Court is violated.

Let this order remain in force till 31.08.2023 when the application of the petitioner under Section 151 of the CPC would come up for hearing.

With these observations, the writ petition is disposed of.

All points are kept open to be agitated before the learned Civil Court.

The merits of the case had not been gone into except for the purpose of deciding the writ petition.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

**(Jay Sengupta, J.)**