

22.06.2023
Item No.16
gd/ssd

FMA/1277/2022
IA NO: CAN/1/2022
GHANTA SK. @ AMIR SARKAR AND ORS.
VS
THE STATE OF WEST BENGAL AND ORS.

Mr. Balai Lal Sahoo,
Md. Kutubuddin
..for the Appellants.

Ms. Chaitali Bhattacharyya
..for the State.

Mr. Samiran Giri,
Ms. Madhumita Patra
..for the Respondent Nos.6 to 13.

1. This intra court appeal by the private respondents in the writ petition in WPA 4265 of 2022 are aggrieved by the order dated 30th August, 2022 by which the learned writ court directed the order of status quo granted by the civil court to be strictly implemented.

2. In our, prima facie, view it will be a difficult task for the respondent police to implement an order of status quo because the same is subject to interpretation by both sides. Furthermore, the writ petition was disposed of in August, 2022, whereas the order of status quo was granted in the year 2016. Admittedly, the suit filed by the appellants in Title Suit No.257 of 2009 before the Court of Lalbagh Civil Judge (Senior Division) is pending and the writ petitioners have also filed an application under Order 39 Rule 2A

CPC stating that the private respondents/appellants herein have violated the order of status quo.

3. In such circumstances, no direction can be issued to the police to strictly implement the order of status quo and the parties have to agitate the matter before the Civil Court before which an application under Order 39 Rule 2A CPC is pending at the instance of the writ petitioners.

4. Therefore, the appeal stands disposed of by clarifying that the respondent police cannot be called upon to implement an order of status quo and the parties have to pursue the remedy in the pending application filed under Order 39 Rule 2A CPC.

5. The learned Court of Lalbagh Civil Judge (Senior Division) is requested to give an early hearing to the said application filed under Order 39 Rule 2A CPC or if the suit is itself is ready for trial, the same can be taken and disposed of at an early date without granting any unnecessary adjournment to both sides.

(T. S. SIVAGNANAM)
CHIEF JUSTICE

(AJAY KUMAR GUPTA, J.)