

June 14, 2023
Sl. No.02
Court No.19
s.biswas

CO 3143 of 2022

Sri Jibankrishna Payra and another
vs.
Sri Nishikanta Payra and others

Mr. Soumen Kr. Dutta
Mr. Sabyasachi Bhattacharjee

... for the petitioners

Affidavit of service filed by the petitioners is taken on record. Despite service, none appears for the opposite parties.

The order impugned is an order dated September 22, 2022 passed by the learned Civil Judge (Senior Division), 1st Court, Contai, Purba Medinipur, by which an application for implementation of the order of ad interim injunction with police help, has been allowed. The impugned order has been passed in Title Suit No.16 of 2022.

An ad interim injunction was passed by the learned court on January 20, 2022, directing the plaintiffs and the defendants to maintain status quo in respect of the nature, character and possession of the sit property. The said order was also extended from time to time.

The plaintiffs alleged that in violation of the order of status quo, the defendants tried to disrupt the drainage of foul water from the suit property. The plaintiffs protested. The defendants threatened the plaintiffs with dire consequences. The plaintiffs

reported to the police station. Thereafter, an application was filed under Section 151 of the Code of Civil Procedure, for implementation of the order of status quo with police help.

The learned court below, upon perusal of the learned Commissioner's report, arrived at the conclusion that there was an attempt on the part of the defendants to change the nature and character of the suit property by blocking the drainage system. An order of police help was passed.

Mr. Dutta, learned advocate appearing for the petitioners, submits that finding of the court with regard to the alleged drain on the suit property was incorrect. Further finding with regard to disruption by the defendants was also incorrect and not supported by the report of local inspection. The observations are with regard to disposal of the application for police help and shall not prejudice the main suit.

The learned court below, on facts and after considering the learned Advocate Commissioner's report, has come to the conclusion that there was an attempt by the defendants to flout the order of injunction. Further, the finding with regard to disruption of the free flow of the drainage system by the defendants was noted and implementation of the order of status quo by the police was allowed.

The Court's power to grant police help in aid of implementation of the injunction order, be it ad-interim or temporary, has been recognized by this Hon'ble Court in a series of decisions which are as follows:

(a) Saudamini Roychowdhury -vs- Satyendra Nath Sarkar, reported in 1985 CWN, Page 958;

(b) Sunil Kumar Halder & Ors. - vs - Nishikanta Bhandari & Ors., reported in AIR 1983 Calcutta, Page 266;

(c) Charubala Dev Nath - vs - Niranjan Patnaik, reported in 1993(2) CLT, Pg. 449 and

(d) Paresh Chandra Das - vs - Bikash Kumar Das & Ors., reported in 2010 (2) CLJ, Page 110.

Thus, following the above decisions, this Court holds that it is the duty of the Court to see that its order of injunction is properly implemented and if it is found that there is reasonable threat from the side of the defendant of committing any mischief in violation of the order of injunction, then the Court should pass necessary directions upon the police authority to render assistance to the parties in whose favour the injunction was granted, so that the order of injunction is strictly implemented.

This Court is for the view that when an order of injunction and/or ad interim injunction in the nature of status quo had been passed, both the parties were bound to comply with the said order. It is a matter of public policy, that orders passed by courts should be adhered to by the parties and the

courts have the power to ensure that orders are complied with and implemented.

This court does not find any irregularity in the order impugned. The impugned order is upheld.

The revisional application is dismissed.

(Shampa Sarkar, J.)