

15 30.11.2023  
NB Ct. 14

**WPA 22601 of 2023**

Fansur Rahaman  
Vs.  
The State of West Bengal & Ors.

Mr. Sarbananda Sanyal.  
...for the petitioner.

Mr. Somnath Ganguli Ld. AGP,  
Ms. Sukalpa Seal.  
...for the State.

Mr. Usof Ali Dewan,  
Mr. Asif Dewan.  
...for the respondent no.5.

Affidavit of service filed on behalf of the petitioner is taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is the owner of the property in question. For quite some time, the private respondents had been disturbing the peaceful possession and enjoyment of such property. They had been undertaking illegal construction at the property and now even on public road. By an earlier order dated 05.04.2023 passed by this Court in WPA 659 of 2022, the Raghunathgunj Police Station was directed to ensure that no breach of peace takes place in the area.

Learned counsel appearing on behalf of the private respondents denies the allegations and submits as follows. The respondent no.5 is not violating the civil Court's order of status quo in respect of the property in question. There is no question of undertaking any construction on a public way.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. Upon enquiry, it was

found that no further construction has been made on the roof of the property as alleged. Nor has any construction being found on the public way. However, both the parties are at loggerheads. Therefore, a proceeding under Section 107 of the Code of Criminal Procedure was instituted.

It appears that a civil dispute exists between the private parties and the petitioner had earlier vented his grievance regarding violation of a status quo order passed by a civil Court. By an order dated 05.04.2023, this Court granted liberty to the petitioner to approach the civil Court for passing direction so that the order of status quo is not violated. The petitioner shall continue to have such liberty.

It is pertinent to note the findings of the police authorities that there is no further unauthorised construction on the property or on the alleged portion of the public way. The police have also take steps by instituting a proceeding under Section 107 of the Code of Criminal Procedure.

Therefore, no further order need be passed in this regard.

However, the police authorities shall keep a sharp vigil at the locale, ensure that no breach of peace takes place and see to it that no order of a civil Court is violated.

With these observations, the writ petition is disposed of.

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

**(Jay Sengupta, J.)**