

22.02.2023
Court No.13
Item No.14
AP

WPA 28755 of 2022

**Raj Kumar Agarwal
Vs.
The State of West Bengal and Ors.**

Mr. Sunny Nandy
Mr. Purnendu Maity
Mr. Subha Pathak

... For the petitioner.

Mr. Siddheswar Chandra
Mr. Prabir Kumar Nandi
Mr. Sandip Dutta

... For the respondent No.7.

The petitioner complains of alleged inaction by the Shyampukur Police Station in complying with an order of injunction passed by the learned 10th Bench, City Civil Court at Calcutta in TS No.2389 of 2022.

The Additional Officer-in-Charge, Shyampukur Police Station has filed a report dated 20th February, 2023 and the same is taken on record.

It appears that as to whether the petitioner is in actual physical possession of the property is not clear from the order. The order also does not and cannot mandate any dispossession of the private respondent by the police. The order is ad interim in nature.

In these circumstances, this Court directs the petitioner to approach the Court below for appropriate ascertainment of facts inter alia through an advocate commissioner or otherwise.

It is only after ascertainment of who is in actual physical possession of the property, the Court below shall direct any further measures under Order 39 Rule 1 & 2 of the Code of Civil Procedure.

The Court below may also call for appropriate reports from the concerned police station for the aforesaid purpose.

The orders already passed by the Court below may continue and abide by any further orders that may be passed by the Court below in accordance with law.

The Shyampukur Police shall strictly comply with any order that may be passed by the Court below.

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

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.)