

10.08.2023
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Sl. No. 07
Ct. No. 12

MAT 765 of 2020

With
CAN 01 of 2020

Smt. Sarojini Maity & Ors. (legal heirs of deceased
Bhupati Charan Maity)

-Versus-

The State of West Bengal & Ors.

Mr. Rabiul islam
Mr. Jayed Hossain
Mr. Raju Mondal

.....for the appellants

Mr. Subhajyoti Chandra

.....for the respondents

The appellant in the present appeal filed WPA 6338 of 2020 alleging that respondents in spite of injunction granted by competent civil Court restraining the respondents from interfering with appellants' possession, in violation of such injunction is interfering with possession of the appellants. According to the appellants, the police is not taking any action on the complaint given by the appellants. The learned Judge dismissed the writ petition holding that the appellants have remedy under order 39 Rule 2A of CPC against the respondents if any violation of the order of injunction granted by the civil Court and writ jurisdiction cannot be invoked for the relief sought for by the appellants. Against the said order, the present appeal has been filed. Pending appeal, the appellant died. His legal heirs were brought on record by the order of this Court.

From the materials on record, it is seen that learned Judge considered the materials on record and the nature of relief sought for in the writ petition and

dismissed the writ petition in view of the remedy available under order 39 Rule 2A CPC. The reason given by learned Judge is valid and legal.

Learned counsel appearing for the appellants seeks liberty to approach the civil Court under order 39 Rule 2A. It is always open to him to approach the civil Court for any violation of the order of injunction granted by the civil Court.

The appeal fails and dismissed without any order as to costs.

Urgent certified photocopy of this order, if applied for, be supplied to the parties expeditiously on compliance of usual legal formalities.

(V.M. Velumani, J.)

(Rai Chattopadhyay, J.)