

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Appellate Side**

WPA 1071 of 2023

Akshya Mandal
-versus
The State of W.B. & ors.

Ms. Nikita Agarwal
...for the petitioner
Mr. Bikash Singha
...for respondent nos. 4 & 5
Mr. Subir Kumar Saha
Mr. Momenur Rahman
...for the State

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities, especially the respondent nos. 2 and 3, to comply with the order passed by the learned Civil Judge, Junior Division, 2nd Court, Jalpaiguri in T.S. No. 16 of 2022 and implement the order of injunction passed on 19.01.2022.

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

Report filed on behalf of the State is also taken on record.

Learned counsel for the petitioner submits as follows. The petitioner filed a civil suit in respect of a property. The learned Civil Judge, Jr. Division, 2nd

Court, Jalpaiguri was pleased to pass an order of ad-interim injunction against the respondent nos. 4 and 5 restraining the defendants from interfering with the peaceful possession of the plaintiff in respect of the suit property as mentioned in the schedule of the plaint till 16.02.2022. The interim order was thereafter extended. Yet, the respondent nos. 4 and 5 had been violating the order passed by the Civil Court. An application was made before the learned Civil Court in this regard. The learned Civil Court asked the police to file a report. But, they have not done so. The petitioner has also approached the local police station, but no FIR has been registered in this regard.

Learned counsel appearing on behalf of the State relies on the report and submits as follows. The intimation subsequently given by the petitioner regarding violation of an order of the Civil Court did not amount to a cognizable offence. Therefore, no FIR was registered. However, appropriate steps were taken. Proceedings have been initiated against the miscreants under Section 107 of the Code. Reports have also been submitted.

Learned counsel for the private respondents submits that his clients have committed no violation of the order passed by the learned Civil Court.

I have heard the submissions of the learned counsels for the parties and have perused the writ petition and the report filed by the State.

It appears that the petitioner has approached this Court with a grievance that an order of injunction passed by the learned Civil Court was being violated. For such violation, the learned Civil Court has enough powers to take appropriate action. The petitioner is at liberty to pursue the same.

On the further allegation that the police are not filing report before the learned Civil Court despite the Court seeking such report, it is expected that the respondent police authorities would act in accordance with law at the earliest.

It further appears that on subsequent intimation given by the petitioner to the police, proceedings have been drawn up under Section 107 of the Code.

In view of the above, no further order need be passed by this Court.

The learned Civil Court shall be at liberty to take necessary measures to have its order implemented.

With these observations, the writ petition is disposed of .

Urgent Photostat certified copy of this order be supplied to the parties, if applied for, as early as possible.

(Jay Sengupta, J.)