

08.07.2024
Sl. No.2(DL)
srm

W.P.A. No. 3855 of 2023
Sri Saibal Basu
Versus
The State of West Bengal & Ors.

Mr. Kallol Basu,
Mr. Bratin Kumar Dey
...for the Petitioner.

Mr. Anand Farmania,
Ms. Indumouli Banerjee
...for the State-respondents.

Mr. Pinaki Dhole,
Mr. Sayan Datta
...for the Respondent Nos.2 & 3.

Mr. Debabrata Karan,
Mr. Debopriya Karan
...for the Respondent No.4.

This writ petition is not maintainable.

The petitioner alleges that the learned Additional District Judge, 13th Court at Alipore, South 24-Parganas has passed numerous orders in Act VIII Case No.59 of 2018, which are not sustainable in law. The contention of the petitioner is that in spite of rules having been framed by the High Court, the learned Judge was not following the rules and procedure.

Admittedly, the orders which have been passed are judicial orders. The allegation is against a judicial officer, who according

to the petitioner, is not acting in accordance with law in discharge of his judicial function. Thus, approaching the writ court under Article 226 of the Constitution of India is not the proper remedy. If the petitioner is aggrieved by the orders passed by the learned civil court while adjudicating the matter, the remedy of the petitioner would be before the Court taking up civil revisional applications under Article 227 of the Constitution of India. The general power of superintendence is vested on the High Court under the said Article and the High Court has the superintending power over all district courts and tribunals etc.

The petitioner had earlier approached the civil revisional court by filing C.O. 2501 of 2023 challenging orders passed in Act VIII Case 599 of 2018. The said revisional application was disposed of with necessary directions.

This Court is of the view that even if the learned civil Judge passed order *de hors* any rules or without following the procedure, such orders are amenable to the jurisdiction of the High Court under Article 227 of the Constitution of India. The Code of Civil Procedure provides remedies which can also be availed if the petitioner is aggrieved by the manner in which the judge is proceeding.

The writ petition is disposed of without any orders, by granting liberty to the petitioner to approach the proper forum.

There shall be no order as to costs.

Parties are directed to act on the basis of the server copy of
this order.

(Shampa Sarkar, J.)