

February 7, 2024
AD 21
Ct. No.14
SG

WPA 16302 of 2023

Hasi Banerjee
vs.
Union of India and others

Mr. Arun Kumar Maiti
Mr. Manabendranath Bandyopadhyay
Mr. R.R. Mohanty
Mr. Shivam Saha
... for the petitioner.

Mr. Suman Ghosh
Ms. Munmun Tewari
... for the State.

Mr. Randhir Singh
Mr. Sunny Nandy
Ms. Manisha Soni
Mr. Subha Pathak
... for the respondent Nos.8 & 9.

Report filed by the State along with a copy of the order dated 24.01.2023 passed by a Coordinate Bench of this Court in WPA 27482 of 2022 is taken on record.

Learned advocate for the petitioner submits as follows. The petitioner is the owner of the land in question and is in possession of the first floor of the premises. She is residing along with her family members. The respondent No.8 being a police officer attached to Howrah Police Station along with his wife had been creating disturbance for sometime. For making innocuous changes in her residence like for fixing windows, they were rather asked for a cut. The municipal authority had earlier stopped construction against the developer committed some wrong doing in construction of the third and fourth floors. Even during pendency of the writ petition the petitioner was asked to go to the police

station and give an undertaking for not making any further complaint against the police officer.

Learned advocate for the private respondents denies the allegations and submits as follows. It would be evident from the documents that an order has been passed to stop work also in respect of the ground floor and the first floor of the building. The private respondents have not done anything to prevent the petitioner from doing any construction work.

Learned advocate for the State relies on the report and submits as follows. It appears that there is a personal issue between the petitioner and the private respondent Nos.8 and 9. They are close neighbours. Whenever something adverse comes up as regards the illegalities committed by the promoter in respect of the said premises, the promoter brings the petitioner, who is the owner of the land, in front to face the situation. On 24.01.2023, a Coordinate Bench of this Court passed an order in WPA 27482 of 2022 thereby recording that there had been massive unauthorised construction in the area and the Commissioner of Howrah Police Commissionerate being the respondent No.7 along with the Inspector-in-Charge of Howrah Police Station being the respondent No.9 were directed to take prompt and necessary steps to ensure that no construction was carried out at the subject premises until the matter was decided by the Howrah Municipal Corporation in respect of the said premises being 252/2/1 Panchanantala Road. The

matter has not yet been decided by the Howrah Municipal Corporation. No construction work can be done there in any of the floors. The respondent authorities had only tried to comply with the Court's order and nothing more.

It appears that there was a direction passed by a Coordinate Bench of this Court that until the issue of unauthorised construction was settled by the Howrah Municipal Corporation, no construction work would be carried out in the said premises. Therefore, the respondent authorities are duty bound to comply with the order passed by this Court.

However, it does not appear that the respondent Nos.9 and 10 are anyway connected with the local police station and have not been entrusted with any authority to carry out any order in respect of the said premises.

Therefore, the private respondents shall desist from creating any disturbance at the said premises. The petitioner shall also strictly abide by the orders passed by Courts of law including the order dated 24.01.2023 passed in WPA 27482 of 2022.

The police shall keep a sharp vigil at the locale and ensure that no breach of peace takes place.

With these observations, the writ petition is disposed of.

Urgent certified copies of this order, if applied for, be supplied to the parties upon compliance of all requisite formalities.

[Jay Sengupta, J.]

