

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

HEARD ON: 09.09.2024

DELIVERED ON: 09.09.2024

CORAM:

**THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
AND**

THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA

M.A.T. 1427 of 2024

With

IA No. CAN 1 of 2024

Sambhu Adhikari

Vs.

The State of West Bengal & Ors.

Appearance:-

Mr. Rajib Kr. Basu

.....for the appellant

Mr. K. J. Yusuf, Ld. A.G.P.

Mr. Saurav Chowdhury

.....for the State

Mr. Sajal Kanti Bhattacharyya

Mr. Sarthak Burman

.....for the respondent nos.4 to 6

JUDGMENT

(Judgment of the Court was delivered by T.S. SIVAGNANAM, C.J.)

1. The appellant/petitioner sought for a direction upon the respondent/police to take action against the respondent nos.4 to 6, who are the co-owners of the property as they were objecting to the appellant's/petitioner's repairing his broken tile roof.
2. The learned Single Bench dismissed the writ petition and rightly so since the police authorities cannot interfere in a civil dispute. Therefore, the order passed by the learned Single Bench cannot be interfered with.

3. Having come to such a conclusion, we queried the learned advocate appearing for the private respondent nos.4 to 6 as to whether his clients would have any objection if the appellant repair the tile roof alone.
4. Learned advocate on instruction submits that the respondents are only concerned about the encroachment, which the appellant is attempting to make and if he wants to repair the broken down tile roof, it will be well-open to him to do so in accordance with law.
5. Accordingly, we direct the appellant to file an undertaking before the respondent no.3/police stating that the appellant seeks to repair the only broken tile roof and that he will not encroach into any land, which is being objected to by the respondent nos.4 to 6. On giving such a written undertaking, the, respondent no.3 shall issue notice to the respondent nos.4 to 6, hear their version and thereafter, proceed to take action in accordance with law. It goes without saying that the appellant cannot make any new construction and can only repair the broken tile roof and the appellant should give such an undertaking before the respondent no.3/police.
6. With the aforesaid directions, appeal and the connected application are disposed of.
7. No costs.
8. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

I agree.

(HIRANMAY BHATTACHARYYA, J.)