

28.10.2024
Item No.
AD 75
Ct. 7
Nandy/Saswata

**W.P.A. 26091 of 2024
with
CAN 1 of 2024**

**Ranjit Kumar Safui
versus
The State of West Bengal & Ors.**

Mr. Raghunath Chakraborty Mr. Supratick Sanyal Ms. Somosreedebi Dutta	...For the petitioner
Mr. Somnath Naskar Mr. Shamik Bagchi Mr. Dilip Kumar Mondal	...For the respondent no. 7
Mr. Mrityunjay Saha	...For the respondent no. 11
Mr. Nikhil Kumar Gupta	...For the respondent no. 5
Mr. Swapan Banerjee Mr. Swapan Kr. Pal Ms. Sumita Shaw	...For the State

1. Affidavit of service filed on behalf of the petitioner is taken on record.
2. The instant writ petition is preferred against the inaction of the police authorities. Learned counsel appearing for the petitioner submits that the Title Suit no. 419 of 1986 is pending before the appropriate Civil Judge, Alipore, South 24 Parganas. He submits that the learned Judge concerned has passed an order on 07.10.2024 directing the Officer-in-charge, Kasba Police Station to look into the matter so that the order of injunction passed by the Court on 28.01.1988 may be appropriately maintained. It is the submission of the learned counsel appearing for the petitioner that the police authority has not taken appropriate steps but with collusion with the private respondents allowed them to make out constructions. At

this juncture, if the police authorities don't take appropriate steps, the entire property under the possession of the present petitioner would change its nature and character. As such, the petitioner prays for necessary direction upon the police authorities so that the police may take appropriate steps as per the direction of the Civil Judge.

3. Learned counsel appearing for the State respondents submits a report contending, inter alia, that there is a long standing dispute between the parties. The report as filed by the State in Court today is taken on record. He submits that both the petitioner and the respondents claim themselves as the owners of the said disputed plot. The police is performing as per direction of the Court, so at this juncture if the necessary order by the Civil Court has been passed, the police shall submit the report within specified time.

4. Learned counsel appearing on behalf of the State further submits that the impugned order dated 07.10.2024 has not been served upon the police authorities till today.

5. Learned counsel for the respondent no.11 submits that the Title Suit no. 419 of 1986 has already been disposed of. So, the impugned order dated 07.10.2024 is unknown to them.

6. Having heard the submissions of the respective parties and considering the issue herein, it appears to me that the Learned Court below had issued a direction upon the Officer-in-charge of Kasba Police Station to ensure that no violation of the order of the Court dated 28.11.1988 takes place.

7. The certified copy of the order dated 28.11.1988 was placed before this Court. On perusal of the order of injunction passed by the Learned Civil Court, it appears to me that the plaintiff alleged before the Learned Civil Court that he was restrained by the defendant for performing *maghi purnima utsab* on 02.02.1988 and *dol utsab* over the suit property on 03.03.1988. On the prayer of the plaintiff/petitioner the Civil Judge concerned has issued an order of injunction and restrained the defendant not to interfere with the performance of *utsab* by the plaintiff/petitioner by erecting temporary pandel for those two ceremonies only, i.e., 02.02.1988 and 03.03.1988.

8. Having perused the certified copy of this order, it appears to me that today the order dated 28.01.1988 has no force. Moreover, the plaintiff/petitioner has not demonstrated any further order before this Court that such order was further extended from time to time. Considering the situation, it appears to me that the Learned Civil Judge has passed the direction upon the police authorities to submit a report. The police authorities have to submit a report as required by the Learned Civil Judge concerned on the date mentioned by the Learned Civil Judge.

9. The allegation against the police authorities regarding their hobnobbing with the respondents are not at all proved before this Court at this juncture.

10. I, therefore, find no justification to pass specific direction upon the police authorities, but only to carry out the order passed by the Learned Civil Judge concerned in its true letter and spirit.

11. Under the above observations and directions, the writ petition being WPA 26091 of 2024 along with its connected application being CAN 1 of 2024 is accordingly disposed of.

12. Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon completion of requisite formalities.

(Subhendu Samanta, J.)