

D/L 75
21.11.2024
Kausik
ct.no.35

W.P.A. 26384 of 2023

**Tarun Maiti
Versus
State of West Bengal & Ors.**

Mr. S. Kumar Dutta
Mr. Subham Dutta

...for the petitioner.

Mr. Krishna Das Poddar

...for the private respondent.

Mr. Biswabrata Basu Mallick
Ms. Parna Roy Chowdhury

...for the state.

Affidavit of service so filed be kept with the
record.

Petitioner submits that because of an order
passed in MP Case No. 756 of 2023 on 14.09.2023
his construction was stopped, to that effect, learned
advocate for the petitioner has drawn the attention of
the court which reflects that the executive magistrate
directed the Inspector-in-Charge, Contai Police
Station to stop illegal construction over the suit
property by the present petitioner, until further
orders and to provide police protection.

Under section 144(2) of the Code of Criminal Procedure the authority of the executive magistrate is to prevent breach of the peace and not to enter into the domain of the civil court. Such an order, which is passed in exigency by exercising the provisions of sub-section 2 of section 144 has its validity only for a period of 60 days. If the petitioner has a sanctioned plan and has relevant permissions, until and unless the appropriate jurisdictional civil court passes any direction, the police authorities will not interfere with the said construction.

In view of the observations made above, police authorities would act strictly and not interfere with the right and liberty of the petitioner.

Respondents have contended that, their land is being encroached, if that be so, respondents would approach the jurisdictional civil court which will consider the representations of the respondents and thereafter pass necessary orders.

With the aforesaid observations WPA 26384 of 2023 is disposed of.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Tirthankar Ghosh, J.)