

D/L14
28.11.2024
Bpg.
ct.no.35

W.P.A.27763 of 2024

**Abhyam Makharia
Versus
The State of West Bengal & Ors.**

Mr. Biswajit Konar
Mr. Arijit Mahinder.
...for the petitioner.

Mr. Swapan Banerjee
Mr. Soumen Chatterjee.
...for the State-respondents.

Mr. Avik Ghatak
Mr. Fahad Imam.
...for the respondent nos.6 and 7.

Affidavit-of-service filed by the petitioner be kept with the record.

Petitioner complains that there has been violation of the order dated 07.10.2024 passed in T.S.166 of 2024 by the learned Civil Judge (Junior Division), 1st Court, Asansol, Paschim Bardhaman. It has been submitted that the private respondent nos.6 and 7 have violated the temporary injunction which was still in force and their men and agents broke the wall and were trying to fix furniture and fittings.

A police report has been submitted. Police report reflects that Asansol (South) P.S. Case No.414 of 2024 dated 14.11.2024 under Section 223 of BNS has been registered.

Mr. Ghatak, learned advocate appearing for the private respondent nos.6 and 7 submits that they were in possession and to that effect draws the attention of the averments in the complaint.

Learned advocate for the petitioner submits that so far as the building is concerned, petitioner is the owner of the building and, as such, he is deemed to be in possession of whole of the property concerned and the defendants have been trying to let of the property which they had no right under the law.

In fact, the learned civil court has directed for maintaining status quo in respect of the nature, character and possession of the property. From the plaint, it is not clear that the physical possession of the particular space referred to therein was in possession of the present petitioner. Accordingly, both the parties are referred to the civil court which would decide regarding the issue relating to possession.

With the aforesaid observations, WPA 27763 of 2024 is disposed of.

There will be no order as to costs.

Report so submitted by the State be kept with the record.

Copy of the report be handed over to both the parties.

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

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

(Tirthankar Ghosh, J.)