

18.07.2025.
21
Ct.No.7.
sdas

WPA 1304 of 2024

Sk. Najrul & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Balai Lal Sahu
Mohammad Ali Mallick
.....for the petitioners

Mr. Rajarshi Basu
Mr. S. T. Mina
..... for the State

1. Affidavit-of-service filed in Court be kept on record.
2. The present writ petition has been preferred praying for the issuance of a writ of mandamus commanding the concerned respondents, especially the Officer-in-Charge, Burdwan Police Station, District Purba Bardhaman, to ensure that the order passed by the learned Civil Judge (Junior Division), 2nd Court, Burdwan in Title Suit No. 534 of 2022, and the order passed by the learned Executive Magistrate, Sadar, Purba Bardhaman, on 5th August, 2022 in a proceeding initiated by the petitioners in an application under Section 144 of the Code of Criminal Procedure, 1973, which was registered as M.P. Case No. 1288 of 2022, are complied with by the private respondents.
3. Mr. Mallick, learned Advocate appearing for the petitioners, submits that the petitioners would be

satisfied if the matter is remitted to the concerned respondents with a direction to consider the petitioners' grievances.

4. Mr. Basu, learned Advocate representing the State, submits that this writ petition cannot be entertained in view of existence of efficacious alternative remedy.

5. The record reveals that the learned Executive Magistrate, by passing an order dated 5th August, 2022, directed the Officer-in-Charge, Burdwan Police Station, to maintain peace and tranquility over the suit property until disposal of the case.

6. I have been informed that M.P. Case No. 1288 of 2022 has already been disposed of. In accordance with the provisions of Section 144(4) of the Code of Criminal Procedure, 1973, the order passed by the Executive Magistrate shall remain valid for a period of two months from the date of its passing. Therefore, the order dated 5th August, 2022 is, as on date, nothing but a dead letter. Consequently, there is no justification to direct the authority to take steps in compliance with the said order.

7. As noted previously, the petitioners have approached this Court seeking an order to secure compliance with the order dated 24.09.2022 passed by a competent Court of Law in a suit. The Code of Civil Procedure, 1908, provides the appropriate provisions

to address any non-compliance with the order passed by that Court.

8. Therefore, an alternative statutory remedy is available to the petitioners. It is well settled by a catena of decisions of the Honorable Supreme Court that where an alternative remedy, particularly a statutory remedy, exists, the Writ Court must exercise self-restraint. A Writ Court cannot be converted into an Executing Court and cannot be called upon to execute the order passed by a Civil Court in a suit.

9. Accordingly, for this reason, I am not inclined to interfere in this writ petition.

10. However, this order shall not preclude the petitioners from approaching the appropriate forum with appropriate application to have their grievances redressed.

11. With these observations, the writ petition is, thus, disposed of. However, there will be no order as to costs.

(Partha Sarathi Chatterjee, J.)