

11.02.2025
Court No. 35

Item No.89
Rakib

W.P.A. 2253 of 2025

Parash Nath Shaw & Ors.

VS

The State of West Bengal & Ors.

Mr. Shamal Kumar Das,
Mr. Ajay Barman Roy,
Ms. Krishna Yadav.

... for the Petitioners.

Ms. Chaitali Mukhopadhyay,
Mr. Aditya Chakraborty.

... for respondent nos. 4,5 &6

Mr. Samrat Sen, Sr. Adv.

Ms. Manali Ali.

... for the State.

Petitioners approached this Court contending that he intends to repair his business premises. To that effect he has faced resistance from the police authorities. Petitioners therefore contend that the police have exceeded their authority in restraining the petitioner from carrying out his renovation work in the business premises.

State has submitted a report. Report reflects that a Civil Suit being T.S. No. 664/2024 is pending before the learned Civil Judge, 2nd Court, Barrackpore. It has also been contended that in M.P. Case No. 1389/24 there was a direction under Section 144(2) of Cr.P.C. by the learned Executive Magistrate, thereby restraining any illegal construction. Although the legality of such order is questionable as the learned Executive Magistrate do not have any domain

to interfere in such circumstances atleast by way of passing an ex parte order.

As pointed out by the learned advocate appearing for the private respondent nos. 4 and 6 that the private respondents approached the Civil Court and on 02.09.2024 the learned Civil Judge, Junior Division, 2nd Court, Barackpore in T.S. 664/2024 was pleased to restrain the present petitioners from disturbing the peaceful possession and enjoyment over the scheduled property and from encroaching any portion of the suit property.

Further, while the petitioners claim that he has been renovating and/or repairing his business premises and on the other hand the private respondent claim that substantial encroachment has been made by the petitioner under the garb of such repairment and/or renovation.

I am not inclined to take into account the issues relating to repairing or renovation or that of the encroachment, since the Civil Court is already in seisin of the issues of dispute. The petitioners and the private respondent would settle the same before the jurisdictional Civil Court in seisin of the matter.

However, since the petitioners and the private respondents are at loggerhead, police authorities

would keep a strict vigil and would ensure that no breach of the peace and/or tranquility take place and/or any untoward incident results because of the inimical relationship existing between the parties.

With the aforesaid observations WPA 2253 of 2025 is disposed of.

Report submitted by the State be kept with the record.

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

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

(Tirthankar Ghosh, J.)