

136 31.07.2023
NB Ct. 14

WPA 8975 of 2023

Baharjan Bibi
Vs.
The State of West Bengal & Ors.

Mr. Sachit Talukdar,
Mr. Karan Bapuli.
...for the petitioner.

Mr. Tapas Kr. Mandal.
....for the State.

This is an application under Article 226 of the Constitution of India praying for a direction upon the respondent authorities to render police assistance and/or protection to the petitioner to enable her to undertake the task of repairing and restoring her residence, in compliance with an order passed on 22.12.2022 in Title Suit No.443 of 2019 by the learned Civil Judge (Senior Division), 7th Court, Alipore.

Affidavit of service filed on behalf of the petitioner is taken on record.

Despite service, no one appears on behalf of the private respondents.

Report filed on behalf of the State is also taken on record.

Learned counsel appearing on behalf of the petitioner submits as follows. The petitioner is a co-sharer in a landed property. The petitioner filed a suit of partition being Title Suit No.443 of 2019. On 28.05.2019, the learned Court passed an order in the said Civil Suit directing both the parties to maintain status quo in the said property in respect of alienation as well

as nature and character of the suit property as on date till 26.06.2019. Since the private respondent was violating the order, the petitioner prayed for police help so that the injunction order was not violated. By an order dated 12.12.2022, learned Civil Court directed the Officer-in-Charge, Maheshtala Police Station to see if the order of injunction dated 28.05.2019 is being violated by the defendants in any means and if any such violation is noticed by the Officer-in-Charge, he was directed to submit a report and implement the order to its true spirit. The private respondent continued with his mischief. In spite of this, the police have not rendered any help for the petitioner to carry out the order. The house of the petitioner also suffered some damage, which needed to be repaired. By an Order dated 22.12.2022, the learned Civil Court allowed the petitioner's application under Section 151 of the CPC granting liberty to the plaintiff to carry on the repair work subject to that she would not change the nature and character of the suit property. The petitioner undertakes to complete the necessary repair works in the building within three days of its start.

Learned senior counsel appearing on behalf of the State submits that the police are keeping a strict vigil at the locale and ensuring that no breach of peace takes place.

I have heard the submissions of the learned counsels appearing on behalf of the parties and have perused the writ petition and the report filed by the State.

It appears that a partition suit is pending between the private parties in spite of that allegedly the private respondents are disturbing the possession of the petitioner.

Earlier the learned Civil Court granted an order of status quo in favour of the petitioner and even passed an order under Section 151 of the CPC for obtaining a report from the local Officer-in-Charge of the police station. Subsequently, on an application by the petitioner, learned Civil Court further allowed the petitioner to carry out the repair work with protection to the extent that it did not change the nature and character of the property.

It appears that in spite of these, the petitioner has not got any police help to have the repair work done.

In view of the above, I direct the Officer-in-Charge of the local police station to keep a sharp vigil at the locale and ensure that no breach of peace takes place even when the petitioner carries on necessary repair work as per and in terms of the Order dated 22.12.2022 passed by the learned Civil Judge (Senior Division), 7th Court, Alipore in Title Suit No.443 of 2019.

With these observations, the writ petition is disposed of.

Urgent photostat certified copy of this order may be supplied to the parties expeditiously, if applied for.

(Jay Sengupta, J.)