

08.08.2025.

**15
Ct.No.7.
as**

WPA 12458 of 2025

**Subrata Das
Vs.
The State of West Bengal & Ors.**

(Assigned)

Mr. Moyukh Mukherjee,
Mr. Abhijit Singh,
Mr. Saurat Mondal.

.....for the Petitioner.

Mr. Brojesh Jha,
Mr. Tapan Bhanja.

...for the Union of India.

Mr. Swapan Banerjee,
Ms. Sumitra Shaw,
Mr. Dipendu Narayan Banerjee,
Mr. Soumen Chatterjee.

...for the State.

1. Citing inaction on the part of the Inspector-in-Charge, Noapara Police Station, which falls under the territorial jurisdiction of the Barrackpore Police Commissionerate in the district of North 24-Parganas, in taking appropriate steps on the basis of a complaint lodged by the petitioner, the present writ petition has been filed.

2. Mr. Mukherjee, learned Advocate appearing on behalf of the petitioner, submits that the petitioner is a poor citizen, and in order to secure a definite source of income for his livelihood, he entered into a contractual agreement with Indus Tower Limited, a telecommunication infrastructure company, to provide a designated area measuring 300 sq. ft. on the

rooftop of his residential premises for the purpose of installing a mobile tower.

3. He submits that the mobile tower has been installed on the rooftop of his residential premises, and that all necessary formalities were duly complied with prior to such installation. He further submits that even the Nodal Officer of the district of North 24-Parganas issued a No Objection Certificate in this regard. However, he states that subsequently, members of the respondent no. 8 started creating obstruction to the engineers and other workers engaged in the maintenance of the said tower, under the erroneous impression that the tower may may entail health hazards for the residents of the locality.

4. He submits that unless the members of respondent no. 8 are restrained from creating obstruction to the personnel engaged in the maintenance activities of the tower, and if they are permitted to interfere with its smooth functioning, it may result in disruption of the income generated from the said tower, which constitutes the petitioner's sole source of livelihood.

5. He submits that an appropriate direction be given to the Inspector-in-charge to take necessary steps so that the Engineers and other workers engaged by the Indus Towers Limited in the activities of maintenance of the tower are not obstructed in any way or manner by the members of respondent No.8 or any other person from the surroundings of the locality.

6. Mr. Banerjee, learned Additional Government Pleader appearing for the State, submits a report and contends that

respondent No. 8 has instituted a civil suit, in which the issue of installation of the tower is the subject matter. He further submits that an interim order has been passed in that suit. Since the matter regarding the installation of the tower on the designated rooftop of the petitioner's residential premises is sub judice before the civil court, the Inspector-in-Charge of Noapara Police Station did not take any action. He submits that the petitioner is at liberty to approach the civil court to seek appropriate relief.

7. Heard the learned Advocates appearing for the respective parties and perused the materials on record placed before me.

8. A Civil Suit filed being Title Suit No.134 of 2023 has been instituted before the learned Civil Judge (Junior Division), 2nd Court, Barrackpore, North 24-Paraganas by the respondent no.8 against the present petitioner.

9. To better appreciate the issue involved in the writ petition, it would be prudent to quote the prayer appended to the plaint presented before the learned court below which reads as follows:

“ Under the above facts and circumstances it is most humbly prayed that Your Honour would graciously be pleased to restrain the defendants and their men and agents from encroaching the “B” schedule property either by way of illegal construction upon the “B” schedule property without and/or by installing the Mobile Tower on the “B” schedule property in any manner whatsoever and/or by passing an ad-interim

order in terms of the above prayer and or pass such order or orders as Your Honour may deem fit and proper for the ends of justice.”

10. Therefore, the issue of installation of the mobile tower on the petitioner’s property is the subject matter of a suit pending before a competent Civil Court. Since the Civil Court is in seisin of the matter, it would not be appropriate for this Hon’ble Court to exercise its extraordinary jurisdiction to issue any writ, particularly a writ in the nature of mandamus, directing the Inspector-in-Charge to take any action in this regard unless such direction is expressly issued by the Civil Court. Accordingly, I am not inclined to interfere in the present writ petition.

11. However, this order shall not preclude the petitioner from approaching the Civil Court with a prayer for appropriate relief in accordance with law. In the event, any such application is filed, the same will be considered in accordance with law without being influenced by any observation made in this writ petition.

12. With this observation, the writ petition is dismissed, however, without any order as to costs.

(Partha Sarathi Chatterjee, J.)