01.10.2026

Sl. no. DL/5
Court No. 758

Asraf, A.R.(Ct.)

In the High Court at Calcutta

Constitutional Writ Jurisdiction

Appellate Side

Case No.

WPA 18672 of 2024

In the matter of :

DRIVEWAY MEDICS LLP & ANR.

... Petitioners

VS.

THE STATE OF WEST BENGAL & ORS.

... Respondents

For the Petitioners :

Mr. Md. Mokaram Hossain
Mr. Razzak Hossain
Mr. Md. Najmul Islam

... Advocates

For the Respondents / State :

Mrs. Sudipa Banerjee, Jr. Govt. Adv.
Mr. Koushik Roy

... Advocates

1. The petitioners' case is that the petitioner no.2 along with others jointly purchased a property for the partnership firm, namely, Driveway Medics LLP situated under Mouza – Jemari, J.L. No.32, R.S. & L.R. Plot No.341/751, L.R. Khatian No.1213, measuring an area of 5 decimal within the police station – Salanpur, District – Paschim Burdwan, Pin – 713357.

2. After purchasing the said plot of land, the petitioners duly had its name recorded under the records of right. Sometime in December, 2022 the petitioner intended to raise construction over the said plot of land but all of a sudden on 24th December, 2022, the Inspector-in-Charge of Salanpur police station being the respondent no.3

intervened and stopped the construction on the premise that there has been an order of injunction passed by the learned Civil Judge (Junior Division), 1st Court, Asansol, Paschim Bardhaman. Upon being so informed, the petitioner immediately enquired into the said litigation and found out that a pre-emption case being Pre. Misc. Case no.2 of 2022 pending before the learned Civil Judge (Junior Division), 1st Court, Asansol, Paschim Bardhaman was instituted at the instance of the private respondent no.6 against on Sk. Hasmat.

3. In view of the fact that the petitioners were restrained from raising any construction on their property, they filed an application under Order I Rule 10(2) of the Code of Civil Procedure, 1908 in the said pre-emption case to be added as a party contending that there could not be any injunction order on the petitioners' land inasmuch as the property of the petitioners is distinct with the subject matter of the said pre-emption proceedings.

4. The learned Civil Judge by an order dated 27th July, 2023 rejected the petitioners' application under Order I Rule 10(2) of the CPC thereby holding that the subject matter of the pre-emption proceeding is different from the property of the petitioners and as such the petitioner is not a necessary party to the said

proceeding. The learned advocate for the petitioners has produced a certified copy of the order dated 27.07.2023 along with his application under Order I Rule 10(2) of the CPC and a copy of the application under Section 8 of the West Bengal Land Reforms Act, 1955 being Pre. Misc. Case No.2 of 2022 in between Aruna Shaw vs. Sk. Hasmat.

5. This Court has perused the pleadings of the said case and the orders and indeed finds that the petitioners' property is not the subject matter of the said pre-emption proceeding.

6. A report was called for from the State. The State has duly filed a report dated 31.08.2026 wherein the Inspector-in-Charge of Salanpur Police Station asserts that in view of the *status quo* order passed in the Pre. Misc. Case no.2 of 2022 in between Aruna Shaw vs. Sk. Hasmat the Police was obliged to stop any construction work at the petitioners property.

7. The police authorities reiterate that since an order of *status quo* has been passed in the said pre-emption case, the petitioners have been rightly restrained by the police officers from raising any construction.

8. This Court has perused the papers of Pre. Misc. Case No.2 of 2022 and is of the opinion that the said proceeding relates to a property which is

distinct from the property of the petitioners. This observation emerges from the specific finding of the learned Civil Judge (Junior Division), 1st Court, Asansol, Paschim Bardhaman vide its order 27.07.2023 rejecting the petitioners' application for addition of party in the said proceeding.

9. *The scope of the order of status quo must be understood with reference to its spirit and the property forming the subject matter of the pre-emption proceeding. By the order dated 27th July, 2023, the learned Civil Judge rejected the petitioners' application for impleadment upon finding that their property was distinct from the property involved in that proceeding. In view of that finding and the schedules examined by this Court, the status quo order in Pre. Misc. Case No.2 of 2022 cannot be a basis for restraining construction upon the petitioners' separate property.*

10. *Accordingly, the Inspector-in-Charge, Salanpur Police Station, is directed not obstruct construction upon the property described in paragraph 1 solely on the basis of the status quo order passed in Pre. Misc. Case No.2 of 2022. Any construction shall remain subject to the sanctioned plan and applicable law.*

11. *This Court has not adjudicated the petitioners title or the civil rights of any party. All such questions remain open for determination before the competent forum. This order is confined to the police interference based upon the status quo order in Pre. Misc. Case No.2 of 2022 and shall not prevent lawful action on any independent ground.*

12. Accordingly, **WPA 18672 of 2024** is **disposed of** with the above observations

13. There shall be no order as to costs.

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

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

(Anuj Singh, J.)