

The Court of the Civil Judge(Jr. Divn.), Bidhannagar,
North 24 Parganas

Present: Dhruvajyoti Bhattacharyya, Civil Judge(Jr. Divn.),
Bidhannagar

J.O.CODE WB 1177

Title Suit No. 319/2023

C.I.S.No. 319/2023

WBNP18-000428-2023

Order, dated, the 18th October, 2023

The record is put up today on prayer of the plaintiff who has filed another application u/s 151 of CPC stating that in absence of immediate police help there is an imminent danger that the defendants would make illegal construction over the suit property. This Court has heard Ld. Counsel for the plaintiff who has relied on the decision of Hon'ble Jammu and Kashmir High Court in the case of Chajju Singh v Subhash Agarwal and others delivered on 25th May 2023.

This Court has perused the record. This Court finds that the defendants are yet to appear before this Court. On 29.09.2023, the plaintiff had filed same application with same contention on the basis whereof a proceeding has already been order to be initiated.

In the case of Chajju Singh v Subhash Agarwal (supra) in para 13 of the judgment Hon'ble Court was pleased to observe :

“However, police aid cannot be granted on mere asking and grant of police assistance or aid is an extreme step and is required to be exercised with care and circumspection. The Court can grant assistance of police for enforcement or implementation of orders of temporary injunction, provided it is found that same is just or as observed earlier in order to prevent an abuse of the process of court or when it is found absolutely necessary. The object behind jurisdiction of a civil court to requisition the police aid in order to discharge its functions of giving effect to its decisions or orders, being inherent in nature, can be restored to only for the purpose of meeting ends of justice or prevent abuse of the process of law. It needs a specific mention that inherent powers of a civil court are in aid to and complementary to the powers expressly conferred upon it under the Code and they in no way are

intended to create rights in the parties. The court is obliged to satisfy itself that prima face, there is imminent threat of violation of an interim order passed by it and if police aid is declined, there is no way of ensuring effective compliance of its orders. It implies that once an injunction order is not carried out or obeyed, it is open to the parties to seek police protection to see that court order is implemented and not breeched.”

Hon’ble Calcutta High Court in the case of Soudamini v. Satyandranath reported in 1985 CWN 948, took into account the fact that the defendant has not denied the allegations of the plaintiff that there has been violation of the order of injunction and then granted, the application for police help.

Therefore, it is evident that this Court requires to verify on hearing, giving opportunity of being to both sides, the alleged facts that the order promulgated by this Court of law directing the defendants to abstain from causing disturbance to the peaceful right and possession of the plaintiff over the suit property has been disobeyed.

Plaintiff is hereby directed to notify the defendants as to the application preferred by him with documents if any.

To date for hearing.

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