

01.12.2025

Sl. No.25.

M/L.

Mithun.

Ct.No.29.

CRR/4872/2025

**Manish Agarwal & Ors.
Vs.
The State of West Bengal & Anr.**

Mr. Satadru Lahiri,
Mr. Siddharth Shroff

...for the petitioners.

This is an application wherein petitioners have challenged the impugned order dated 18.10.2025 passed in M. Case No.203 of 2025 by the Executive Magistrate, 3rd Court, Calcutta.

It is submitted on behalf of the petitioners that the petitioners are the tenants who filed a suit for declaration of their tenancy right and injunction and they obtained an injunction order on 10.09.2025 in Title Suit No.2003 of 2025, whereby the opposite party herein /landlord is restrained from disturbing the peaceful enjoyment of the petitioners in the suit premises without due process of law. Thereafter, the landlord/opposite party preferred an application under Section 163 of the BNSS before the Court below who called for an enquiry report from Officer-in-Charge, Park Street Police Station. Thereafter, on perusal of the report by the impugned order, the Court below further directed to obtain enquiry report from the KMC about the alleged unauthorized construction over the premises and to submit the same before the Court by the next date.

Being aggrieved by the aforesaid proceeding, Mr. Lahiri, learned Counsel appearing on behalf of the petitioners submits that the Court below was aware of the restraining order passed by a Civil Court.

Therefore he had got no authority to pass an order of enquiry in the presence of an order of injunction passed by a Civil Court. He exceeded his jurisdiction by asking O.C., Park Street P.S, to see that no breach of peace take place over there . In this context, he relied upon a judgment of the Apex Court in ***Gulam Abbas & Ors. Vs. State of Uttar Pradesh & Ors.*** reported in ***(1982) 1 Supreme Court Cases 71 (Paragraph 27).***

Upon hearing learned Counsel for the petitioners, the application is admitted.

Petitioners are directed to serve a copy of application upon the opposite party no.1 through the office of Public Prosecutor, High Court, Calcutta and also upon the opposite party no.2 through speed post intimating next date of hearing and to file affidavit of service on the returnable date.

Let the matter be listed four weeks hence.

Petitioners will be at liberty to pray for stay after service of copy to the other side.

Petitioners will also be at liberty to pray for accommodation before the Court below on 6th December, 2025.

Parties to act on a server copy of this order duly collected from the official website of the Hon'ble High Court, Calcutta.

(Dr. Ajoy Kumar Mukherjee, J.)