

18th January,
2021
(SKB)
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**Calcutta High Court
In the Circuit Bench at Jalpaiguri**

**W.P.A. 417 of 2020
(Via Video Confernece)**

Pramod Agarwal
Vs.
State of West Bengal and others

Mr. Sunil Kumar Sarkar
... for the petitioner.

Mr. Satyaki Basu
... for respondent no.11.

Mr. Bikramaditya Ghosh,
Mr. Momenur Rahaman
... for the State.

The petitioner seeks implementation of two orders dated 16th June, 2015 and 25th June, 2019 passed by the Civil Judge, Junior Division, Siliguri, by which the parties were directed to maintain status quo in respect of the nature, character, possession and transfer of the suit property. The second order stated that construction at the suit property is still going on by reason of which the Officer-in-Charge, Bagdogra Police Station, was directed to ensure that the order of the court is not violated.

Learned Counsel appearing for the petitioner places an order of a learned Single Judge of this Court dated 28th January, 2020 by which an earlier writ petition filed by the petitioner being W.P.A. 998 of 2019 was disposed of with a direction on the Commissioner of Police, Siliguri

Police Commissionerate, to dispose of the representation of the petitioner dated 6th August, 2019. Counsel submits that pursuant to such direction, the representation of the petitioner was considered and the Commissioner of Police, Siliguri Police Commissionerate, issued the impugned Memo no.958/SPC-V/Legal Cell dated 14th February, 2020 by stating that the order of the learned Single Judge has been complied with and further remains to the petitioner is beyond jurisdiction of the police authorities. Counsel seeks an order restraining the private respondent from making any further construction on the suit property.

The State is represented.

Learned Counsel appearing on behalf of respondentno.11(private respondent) submits that no construction has taken place at the concerned site after May, 2019. It is also submitted that the private respondent produced the records of rights before the police authorities and further that the private respondent has also obtained orders of status quo against the petitioner in civil suits filed by the private respondents against the petitioner.

On perusing the impugned Memo dated 14th February, 2020, it appears that the fact which weighed with the Commissioner of Police was that the petitioner failed to demarcate the land in respect of which the order of the learned court below was passed. It appears that the police authorities have been unable to implement the

order of the learned court below by reason of the competing rights of the petitioner and the private respondent herein.

Since it has been specifically submitted on behalf of the private respondent that there has been no further construction on the subject land after May, 2019, this Court deems it fit to direct the concerned police authorities to make an inspection on the alleged land located at Bagdogra and submit a report in the form of an affidavit with photographs on the nature and extent of the alleged construction which has taken place after the orders passed by the learned court below. The police will be at liberty to take one representative each of the petitioner and the private respondent during the inspection. The assistance of the local Block Land and Land Reforms Officer (B.L. & L.R.O.) may also be taken, if necessary. Since the particulars of the land has been mentioned in the schedule to the plaint filed by the petitioner before the learned court below and is part of the records in the instant case, no directions with regard to demarcation of the land are deemed to be necessary.

The inspection is to be completed within 26th January, 2021.

List this matter on 27th January, 2021.

(Moushumi Bhattacharya, J.)