
(2010) 06 CAL CK 0017
In the Calcutta High Court
Case No : Writ Petition No. 8565 of 2010

Jatindra Nath Das

APPELLANT

Vs

State of West Bengal and Others

RESPONDENT

Date of Decision : 24-06-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 39 Rule 2A, 151
Constitution of India, 1950 — Article 226

Citation : AIR 2011 Cal 26

Hon'ble Judges : Jayanta Kumar Biswas, J

Bench : Single Bench

Advocate : Kajal Ray, for the Appellant; Abha Roy and Amrita Sinha, for the Respondent

Final Decision : Dismissed

Judgement

Jayanta Kumar Biswas, J.—The Petitioner in this Article 226 petition is seeking a mandamus commanding the police to see that the private Respondents cannot erect any construction in violation of the order of injunction made by the Civil Court in the pending suit.

2. Counsel for the Petitioner submits that remedy available under Order 39, Rule 2A of the Code of Civil Procedure, 1908 is not sufficient, because no order can be made in the proceedings initiated under the provisions giving the police any direction for any purpose.

3. I am unable to accept the argument. The provisions of Order 39, Rule 2A and Section 151 of the Code of Civil Procedure, 1908 empower a Civil Court not only to punish for contempt, but also to set right the wrong. See Delhi Development Authority Vs. Skipper Construction Company (P) Ltd. and another,

4. Hence in the proceedings initiated under Order 39, Rule 2A of the Code of Civil Procedure, 1908, if necessary, an order for demolition of any construction erected by any one in violation of a Court order can be made, and in execution of

such order the Court concerned can direct the police to act.

5. I am, therefore, of the view that the Petitioner's remedy, if any, is only before the Civil Court that made the injunction order.

6. For these reasons, the petition is dismissed. No costs. Certified xerox.