

(2018) 01 CAL CK 0077
In the Calcutta High Court
Case No : 30787 (W) of 2017

Sabita Ghosh

APPELLANT

Vs

The State of West Bengal & Ors.

RESPONDENT

Date of Decision : 05-01-2018

Acts Referred:

Citation : (2018) 01 CAL CK 0077

Hon'ble Judges : Debangsu Basak

Bench : Single Bench

Advocate : Subhro Lahiri, Barnali Gupta, S.K. Nizamuddin, Lal Ratan Mondal, Srijib Chakraborty

Judgement

1. The petitioner complains of police inaction.
2. Learned Advocate for the petitioner submits that, there subsists an interim order passed by a Civil Court directing maintenance of status quo. He draws the attention of the Court to an order dated September 18, 2017 passed in W.P. 23968 (W) of 2017 and submits that despite the directions contained in such order, the private respondent is continuing to hold puja at the disputed property and is in the process of constructing a temple thereon.
3. The State and the private respondent are represented.
4. Learned Advocate for the private respondent submits that, the record of right shows that the property involved is treated as a religious property. The puja was held from time immemorial. Therefore, the order of status quo does not prevent the holding of the puja.
5. Learned Advocate for the State submits that, the petitioner is not the recorded owner of the property.
6. I have considered the rival contentions of the parties and the materials made available on record.

7. There subsists an order passed by the Civil Court. The order is dated December 22, 2015. By such order, the parties to the suit were directed to maintain status quo as on the date of such order. Nothing is placed on record to suggest that, the order passed on December 22, 2015 stands modified or varied. On the contrary such order has been made absolute. There is a subsequent order dated September 18, 2017 passed by the High Court in W.P. 23968 (W) of 2017. The relevant portion of such order is as follows:- "In view of the fact that the property is sub judice before the civil court wherein an order of status quo has been passed, I observe any change of nature, character and/or possession of the scheduled property by making temporary structures thereon and/or holding puja or other celebrations therein must be performed after obtaining requisite permission/order from the civil Court which is in seisin of the matter in accordance with law.

Needless to mention that lawful orders passed by the said judicial authority shall be duly implemented by the police authorities in accordance with law."

8. The order dated September 18, 2017 records that holding of puja or other celebration in the plot must be performed after obtaining requisite permission/order from the Civil Court, which is in seisin of the matter in accordance with law. Nothing is placed on record to suggest that, the private respondent has obtained an order from the Civil Court in seisin of the suit to permit the private respondent to hold a puja or celebration on the plot of land concerned.

9. In such circumstances, the police authorities will proceed to ensure that no puja or celebration is held in the plot of land without the requisite permission from the Court before which the suit is pending.

10. This order will not prevent the parties from availing of their remedies before the appropriate forum in accordance with law. W.P. 30787 (W) of 2017 is disposed of without any order as to costs.

11. Urgent website certified copies of this order, if applied for, be made available to the parties upon compliance of the requisite formalities.