

Serial No.	Date	Office notes reports orders on Proceedings With Signature.
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18.02.04 W.P. No.17060 (W) of 2003.

Howrah Mills Co. ^{the} Petitioners.

The State of West Bengal & Co. Respondents.
Mr. Utpal Majumder

Mr. P.D. Mukherjee

Mr. P. Kar

for the petitioner

Mr. B.R. Bhattacharyya

for the
Private Respondents

Mr. A Roy

Mr. A. Mukherjee

For the State Respondents

Claiming to be the owner of the property in question the Writ Petitioner approached this Court by filing the present writ petition and therein contended that the private respondent without the permission of the writ petitioner, are seeking to step into the said property. In such view of the matter, on 22nd December 2003 I permitted the petitioner to approach the Inspector-in-Charge, Shibpur Police Station Howrah with a direction upon his to provide police picket at the cost of the petitioner in order to ensure that no one enter the

property in question, in any manner whatsoever without the permission of the petitioner and to report back to this court as to the implementation of the said Order. Subsequent thereto the Police reported back that after the Police Picket was posted at the property of the petitioner in terms of the said order, initially the local people raised slogans but later on they did not come to the property and ultimately the situation was brought under total control to the satisfaction of the petitioner as no one tried to step into the property in question without the leave of the writ petitioner.

Thereupon the present application being CAN No.259 of 2004 was filed by Md. Shamim Sri Premnath Shaw and Karmuruddin. In the said application it is the case of the applicants that the applicants have come to know from Shibpur P.S. has been directed to put police picket at the cost of the Writ Petitioner in order to see that no one enters the property of the petitioner in any manner whatsoever.

It is the case of the applicants that the applicants are the Co-owners of the property in question. In paragraph 5 of the application they have stated that the applicants have permitted the Children to play in the property in question. In offer to show that the question applicants are co-owners of the property in question, the applicants have relied upon a Deed. In the Deed it has been mentioned that Biswanath Shaw, gopal Prasad Shaw, Dewani Lall Shaw, Sk. Abdul gaffar, Sk. Abdul Karim Ganesh Prosad Shaw, Sita Ram Shaw and Kusia Musamat have purchased from. One Nilratan Ghosh Sarkar and Ram Ratan Ghose Sarkar being the Shebaitis of Shree Shree Durga Thakurani 2/8th undivided share of two annas of the undivided share of a land comprising of about 38 bighas, In that document itself it has been mentioned that it has been decided in T.S. No.90 of 1934 by the Second Sub-Judge, Howrah that Howrah Mills Company Limited being the Writ petitioner herein, is a more thika tenant in respect of the said 2/9th undivided share of two annas of the undivided share of a land comprising of about 38 Bighas. In that documents itself it has been mentioned that it

has been decided in T.S. NO>*) OF !(#\$ BY THE
ECOND SUB_Judge, Howrah, that Horah Mills
Company limited being the Writ Petitioner herein,
is a mere thika tenant in respect of the said 2/9th
undivided share of two annas of the entire land.
The Learned Counsel appearing on behalf of the
petitioner has submitted that the said deed is a
suspect document. I have no jurisdiction to
pronounce upon the validity of any such document
sitting in this jurisdiction Even as being that the
document in question has conveyed ownership to
the purchasers named the document 2/9th
Undivided share of two annas Undivided share in
the said 38 Bighas of land the documents itself
shows that the right to possession even on 2/9th
undivided share of two Annas undivided share in
the said 38 Bighas vests by virtue of a Judgment
delivered in the Title Suit in favour of the Writ
Petitioner in tis capacity as a thika Tenant The
Applicants have not shown that this Thika Tenancy
was brought to an end at any point of time either
by surrender or by execution of a decree passed
against Howrah Mills Company Limited, Therefore,
despite being Owner, if the document has at all

conveyed any interest in the land to the purchaser named in the documents, who may be a predecessor of any of the applicants, who which however, has not been stated in the Application, the Applicants have no right to step into the property in question and Accordingly had to right ever to permit any children to play on the property in question. The learned Counsel appearing on behalf of the Private respondents has submitted that they are members of a Governing body of a Local Club, and the alleged owners namely P.M. Bustee Bariwalla Association has granted permission to the Private respondent to play on the property in question. It appears that the letter granting permission has been signed by Samsul Haque How P.M. Bustee Bariwalla Association became owner of the property and How Samsul Haque could permit any one to step into the property in right to play on the property in question and as such there is no question of dispossession. No one is contending that they any one was in possession and as such is entitled to protect his possession A Child or a Group of Children, who walked into the land and played for couple of hours end thereupon left the place,

acquired no right in the land. A direction preventing such a child from stepping into the land would not tenant amount to dispossession from the property in question.

If a person entitled to possess a land is illegally dispossessed or is threatened with dispossession he can always look for the assistance of the Police and if the Police refuse to assist such a person it is a clear inaction on the part of the police. I would not accept that an owner or a tenant entitled to possess a land, who has been illegally dispossessed or is sought to be dispossessed by another person having no right to possess is entitled to go to the Civil Court and to File a Civil suit, only. In sch a situation if the police does not assist the person who has been or is sought to be dispossessed in an illegal manner by miscreants the police would be assisting only the miscreants and would not subserve justice.

For what I have indicated, above the present Application is liable to be dismissed with edemplary cost but having regard to the fact that

the applicants themselves have stated that they have permitted the Local Children, to ply on the property in question, it appear that the applicants are also interested to interfere with the right of the petitioner to possess the property in question and accordingly I add then as parties to the Writ Petition and, accordingly the application is disposed of.

It is submitted by the Learned Counsel for the petitioner and not disputed by the Learned Counsel appearing on behalf of the state that when the initial order was passed permitting the petitioner to approach the local police for police picket, one Inspector, two Sub-Inspector, two Head Constables, twelve Constables one lady Sub-Inspector and Two Lady Constables were provided. As stated above, the police itself reported to this Court that the situation is now under Control and no one has stepped into the property in question. Subsequent thereto when the petitioner approached for extension of the police picket, the Officer-in-Charge of the local police station has decided to Post Constable,4 Sub-Inspector 2 Lady

Constable and 3 Head Constables and as result he is now demanding almost double then what was demanded on the earlier occasion as cost for police picket. This conduct on the part of the Police is deplorable after the matter has been sorted out by the Police, how the Police can ask for Deployment of a larger Police personnel has not been explained at all. It is Shameful that in order to protect the property belonging to a citizen will be required to satisfy unjust and unreasonable demand of the Police In those Circumstances, until disposal of this Writ Petition, the Officer-in-Charge of the Shibpur Police Station is directed to see personally that no one in any manner steps into the property in question without specific permission granted by the petitioner to that effect. The Superintendent of Police Howrah, is Directed to ensure that the Officer in Charge of the Shibpur Police Station strictly complies with the above directions. It is made clear that in the above directions. It is made clear that in the event if is reported that with out the permission of the petitioner anyone has stepped into the property in question, I shall held the Superintendent of Police Howrah and the

Officer-in-Charge of Shibpur Police Station personally liable.

Let affidavit-in-opposition to the Writ Petition be filed within three weeks from today, reply thereto if any be filed two weeks thereafter. and the writ petition stands adjourned five weeks, hence.

Let Xerox copies of this orders duly countersigned by the Assistant Registrar (Court) of this Court be handed over to the Learned Counsel for the parties.

(Barin Ghosh, J.)