

WPA 5672 OF 2020
Basana Rani Mondal
Vs.
State of West Bengal & Ors.
+
IA No. CAN 1 of 2020
(CAN 3547 of 2020)
(via Video Conference)

Mr. Biplab Majumder

.... For petitioner

Mr. Arnab Mukherjee

.... For private respondents

The petitioner says that the private respondents being the respondents no.5 to 7 have broken down the boundary wall of the petitioner's premises and subsequently had dispossessed the petitioner from the same. It is also the petitioner's case that adjacent to the petitioner's premises is a playground. By breaking down the boundary wall the petitioner's premises is no more separate from the playground and it is in a state that it forms part of the playground. It is the further case of the petitioner that the private respondents by force intended to encroach upon the petitioner's premises by trespassing into the same with the aim to use the petitioner's structure as club premises adjacent to the playground. Petitioner says that on being dispossessed and even prior thereto the petitioner had made complaints to the local police authority i.e. Bizpur Police Station, District-24 Parganas (North),

West Bengal. The police authorities have taken no steps to ensure the peaceful enjoyment of the premises by the petitioner. The petitioner further submits that the police authorities should be directed to give protection to the petitioner so that the petitioner can enter into his premises and stay therein.

The learned Advocate appearing for the respondents no.5,6 and 7 submits that the property in question does not belong to the petitioner. The petitioner is an encroacher and is trying to perfect her possession by seeking police help. The private respondents are no way connected with the alleged incident complained of by the petitioner. This is disputed by the petitioner who says that she has valid title document in respect of her property.

After hearing the parties and considering the materials on record, I find that the writ Court cannot come to petitioner's aid as disputed questions on fact are involved. The petitioner may be a recorded owner but the fact remains the petitioner has been dispossessed as per her own admission. Moreover, her property in the present is no more separately demarcated. As to when the petitioner has been dispossessed it is also not clear. It is also not clear who dispossessed the petitioner though the petitioner says that he has been dispossessed at the behest of the private respondents no.5,6 and 7. The Specific Relief Act, 1963 has a clear provision for a dispossessed person. The petitioner has to adopt such provisions for any relief

the petitioner is seeking. The police authority can neither adjudge the petitioner's right in respect of the property in question nor give any protection to the petitioner for entering into the premises in question on having been dispossessed. The petitioner will be at liberty to agitate all points before a competent civil Court and will be entitled to the benefits of proceeding before a forum having no jurisdiction.

Since affidavits are not called for, the allegations contained in the petition are deemed not to have been admitted by the respondents.

The writ petition and the connected application are accordingly disposed of.

There shall be no order as to costs.

(ARINDAM MUKHERJEE, J.)

