

S/L 6
15.09.2020
Ct. No. 5
GB

W.P.A 6622 of 2020
with
CAN 1 of 2020
(Old No. CAN 5444 of 2020)

Barun Ghosh & Ors.
Vs.
State of West Bengal & Ors.
(Through Video Conference)

Mr. Tapas Kumar Dey,
Mr. Ashis Kumar Dutta.

...for the petitioners.

Mr. Anubhav Sinha,
Ms. Pallavi Ray,
Mr. Dipak Majumdar.

...for Respondent Nos.5 & 6.

Mr. Raja Saha,
Ms. Rupsha Chakraborty.

...for the State.

This writ petition has been filed challenging inaction on the part of the police authorities in taking steps pursuant to the complaints made by the petitioners before the Officer-in-Charge, Chandrakona Police Station being ChandraKona GDE No.650 dated March 15, 2020 and Chandrakona GDE No.285 dated July 6, 2020.

It is the contention of the petitioners that a civil suit being Title Suit No.35 of 2019 was filed before the learned Civil Judge (Junior Division), Ghatal along with an application for temporary injunction against the respondent nos.5 and 6. An order of ad interim injunction was passed by

the learned civil court injuncting the defendants from constructing any structure upon the Ka and Kha schedule property and also from changing the nature and character of the Ka and Kha schedule property. The interim order is continuing.

Mr. Saha, learned advocate appearing on behalf of the State-respondents submits that the allegations are not correct. The police authorities have entered a GD pursuant to the complaint, they have enquired, they have visited the locale and interrogated the villagers as also the petitioners. According to the police report no new construction has been made subsequent to the filing of the complaints before the police. Mr. Saha assures the Court that the police authorities will maintain vigil to see that the order of the civil court is not violated.

Mr. Sinha, learned advocate appearing on behalf of the respondent nos.5 and 6 submits that the writ petition is not maintainable. If there is any violation of the order of the civil court and/or any unauthorized construction, then the petitioner should approach before the appropriate forum. He further submits that according to a decision of this Hon'ble Court, any relief by way of demolition should be prayed before the municipal authorities and not before a writ court.

This Court has already observed that the police authority has enquired into the matter and nothing further remains to be done. A direction is thus issued upon the police authority to maintain peace and tranquility in the area

and to ensure that the order of the civil court is not violated till the application under Order 39, Rule 2A of the Code of Civil Procedure is disposed of by the civil court upon hearing all the parties. This court has not decided on the question of demolition or violation of the order of the civil court.

Accordingly, WPA 6622 of 2020 along with CAN 1 of 2020 (Old CAN No.5444 of 2020) are disposed of.

There will be, however, no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)