

AD. 15.
December 14, 2020.
MNS.

W. P. A. 10323 of 2020
(**Via video conference**)

Sri Debabrata Pal
Vs.
The State of West Bengal and others

Mr. Uday Ch. Jha,
Mrs. Maheswari Sharma

... for the petitioner.

Mr. Amitesh Banerjee,
Mr. Tarak Karan

...for the respondent-authorities.

Mr. Arnab Saha

...for the private respondent nos. 7 and 8.

Affidavit-of-service filed in Court today be
taken on record.

The grievance of the petitioner is that,
despite repeated complaints, the police
authorities are not taking any action with regard
to such complaints.

Learned counsel for the petitioner submits
that the petitioner has been constrained to take
out several writ applications, as well as filed a suit
bearing Ejectment Suit No. 33 of 2018 (CIS
Ejectment Suit No. 33 of 2018), all of which are
pending.

In such context, when the petitioner went to the disputed premises with his wife, the private respondents raised a hue and cry and have assaulted the petitioner and his wife. It is further argued that the local police are taking the side of the private respondents and have done anything in the matter.

Learned counsel for the private respondents controverts such allegations and submits that respondent no. 6 has already expired and the name of the said respondent no. 6 ought to be expunged. Learned counsel raises further dispute as regards the ownership of the land, controverting the allegation that the petitioner is the owner of the property-in-dispute. In support of such allegations, learned counsel makes further submissions.

Learned senior counsel appearing for the respondent-authorities submits that the first complaint of assault lodged with the police authorities on behalf of the petitioner was the one dated May 26, 2019 (Annexure – P/6 at page – 55 of the writ petition). It is further submitted that the previous complaint lodged by the petitioner resulted in taking on record G.D. entries. However, since no cognizable offence was

disclosed in such allegations, no First Information Report (FIR) was registered.

Learned senior counsel further argues that the complaint dated May 26, 2019 was made against the local police authorities before the Commissioner of Police, Kolkata, and could not give rise to any First Information Report as such.

Upon hearing parties and perusing the materials on record, it transpires that the petitioner has raised a civil dispute and has approached the civil court for obtaining an eviction decree against the private respondents. That apart, certain other allegations were made against the private respondents at the behest of the petitioner, which did not disclose any cognizable offence as such.

Hence, there is no *ex facie* inaction on the part of the local police authorities in so far as the complaints of the petitioner are concerned.

As regards the allegations dated May 26, 2019, made before the Commissioner of Police, Kolkata, those do not pertain directly to any offence having been committed by the private respondents, but are allegations against the local police authorities in allegedly not taking any action on the petitioner's previous complaints.

Be that as it may, since a matter is pending before the civil court, in which an injunction order has already been granted, it would not be prudent for the writ court to go into the merits of the matter.

As far as the complaints of the petitioner are concerned, the only allegation made before the police authorities did not call for the registration of a First Information Report. As such, there is no cause of action for the present writ petition.

Accordingly, W. P. A. 10323 of 2020 is dismissed. However, the petitioner shall be at liberty to ventilate his grievances before the civil court and other legal forums if entitled in law and, if so done, the civil court and/or the other forums shall adjudicate the grievances of the petitioner in accordance with law, without being prejudiced by any observation made herein.

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

The parties are directed to act on the server copies of this order as and when uploaded in the official website of this Court. In any event, the petitioner is granted liberty to communicate the gist of this order to the respondents even

without waiting for such server copy to be uploaded and the respondents are directed to act upon the same.

Since no affidavits were invited from any of the respondents, it will be deemed that the respondents have not admitted any of the allegations made in the writ petition.

(Sabyasachi Bhattacharyya, J.)