

**Circuit Bench of Calcutta High Court
at Jalpaiguri**

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**04.03
2020**

**W.P.A. 300 of 2020
WITH
CAN 1 of 2020**

**Sanjay Patodia & Ors.
Versus
The State of West Bengal & Ors.**

Mr. Kalyan Kumar Chakraborty,
Mr. Ajoy Kumar Singhanian..
.....for the petitioners.

Mr. Debabrata Dhar, AGP,
Ms. Paramita Sahu.
....for the State.

Mr. Sunil Kumar Sarkar.
...For the adding party.

Ms. Bedashruti Bose.
...for the respondent no.7.

In re:- CAN 1 of 2020.

This is an application by Biswajit Bhowmick and Ashok Kr. Bhartia for being added as party respondents to the writ petition. The applicants say that they are the owners of the land and are in possession of the same with regard to which the writ petitioner claims ownership. Since none of the complainants are the accused in the complaint made by the writ petitioner and that the writ Court is not going to decide any title or possession of the land in question, I do not find any merit in the said application for the applicants being made a party to the writ petition.

The application being CAN 1 of 2020 is dismissed. The applicants are at liberty to ventilate their grievance in an appropriate Court.

In Re: WPA 300 of 2020

The petitioner complains of police inaction. It is the case of the petitioner that he is being threatened by miscreants while entering and coming out of his ancestral property probably with the aim of grabbing the property. The petitioner has lodged a complaint but the police authorities have taken no steps in respect thereof.

The private respondent submits that the dispute is actually in connection with a landed property. The petitioner by using police help that may be rendered intends to coerce the private respondent and grab their property. The private respondent further submits that a civil suit and appeal in connection therewith with regard to the land in question are pending.

Mr. Dhar on behalf of the State files a report prepared by the Officer-in-Charge, New Jalpaiguri Police Station, Siliguri Metropolitan Police Station under a covering letter dated 26th February, 2020 signed by the Commissioner of Police, Siliguri Police Commissionerate, Siliguri. The copy of the said report is taken on record and circulated amongst the parties.

After perusing the report I find that a police Case No.323 of 2018 dated 08th May, 2018 under sections 447/465/468/420/120B Indian Penal Code has already been registered at the instance of the petitioner's brother and the investigation is continuing . The report also reveals that Debi Dhar Roy, Pintu Roy, Gopal Laskar and Biswajit Bhowmick were taken into police custody in connection with such case. The report reveals that the petitioner has made self-same allegations against one of the accused in the earlier case namely Debi Dhar Roy. Since he was arrested and is proceeded with the police authority felt that no fresh case has to be registered against Debi Dhar Roy or further enquiry is required against him.

The police authority is bound to proceed against a person if a fresh allegation is made against the same person by a different complainant. The allegations may on enquiry be found to be incorrect or inconsequential but police authority has to enquire on basis of complaint and not to remain silent only because the petitioner's brother had made a previous complaint of similar nature and the accused being also involved in the other case should not be proceeded with in terms of the new complaint.

The Officer-in-Charge, New Jalpaiguri Police Station is directed to register a complaint on the basis of the allegations made by the petitioner and to

enquire into the matter to find the correctness of the same.

The enquiry should be completed as expeditiously as possible but not later than two months from the date of communication of this order. So far as the claim and counter claim as to the title and possession of the land in question are concerned this Court refrains from making any comment as the same would amount to usurping the jurisdiction of a civil Court.

The writ petition is disposed of accordingly.

There shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be supplied to the learned advocates appearing for the parties on compliance of all requisite formalities.

(Arindam Mukherjee, J.)