

C/L. 100.
January 6, 2020.
MNS.

W. P. No. 23691(W) of 2019

Sri Sukumar Mondal and another
Vs.
State of West Bengal and others

Mr. Debajyoti Basu,
Mr. Joyjit Dutta,
Ms. Reshmi Mukherjee

... for the petitioners.

Mr. Raja Saha,
Ms. Tanusri Chanda

...for the respondent-authorities.

Mr. Rajdeep Mazumder,
Mr. Moyukh Mukherjee,
Mr. Abhijit Singh

...for the private respondents.

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

Heard the respective parties.

The grievance of the present petitioners is that the private respondents, despite the predecessor-in-interest of such respondents having let out the suit property to the present petitioners for running a hotel business, are disturbing the running of the said hotel of the petitioners off and on, with the help of outsiders and hooligans.

It is submitted by learned counsel for the petitioners, in his usual fairness, that a civil suit is also pending, but with respect to the respective rights of the parties, being the petitioners and the private respondents, with regard to the property-in-question and the hotel business.

However, it is submitted by the petitioners that the criminal ingredients in the complaint lodged by the petitioners ought to have been taken care of by the police by taking cognizance of the same.

Learned counsel for the private respondents argues that the matter is sub judice before a civil court. It is further submitted that the petitioners have recourse under Section 156(3) of the Code of Criminal Procedure to approach the concerned Magistrate with a similar prayer.

Upon hearing all sides, it is evident that there is no subsisting injunction order in favour of the petitioners from the civil court. As such, since the matter is sub judice before the civil court and the allegations made in the present writ petition are consequential upon the respective rights of the petitioners and the private respondents, which are to be decided by the civil court in the suit, it would not be prudent for this Court to interfere under Article 226 of the Constitution of India.

However, learned counsel for the private respondents is justified in submitting that, in the event any cognizable offence is disclosed in the complaint lodged by the petitioners, the petitioners would have recourse to move the concerned Magistrate under Section 156(3) of the Code of Criminal Procedure.

Accordingly, W. P. No. 23691(W) of 2019 is disposed of by granting liberty to the petitioners to approach the concerned Magistrate having jurisdiction under Section 156(3) of the Code of Criminal Procedure for appropriate orders with regard to the allegation that the police is not taking any steps in respect of even the cognizable offences which have been disclosed by the petitioners in their complaint before the police.

However, it is made clear that the respective rights of the petitioners and the private respondents regarding running of the hotel business has not been entered into by this Court, more so since the same is sub judice before the civil court having competent jurisdiction.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)