

24th February,
2021
(AK)
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W.P.A. 52 of 2021

M/s. Swastik Agro-Tech Private Limited
Vs.
The State of West Bengal & Ors.

Mr. Ravi Ranjan Kumar
Mr. Saket Sharma
...For the Petitioner.

Mr. Siddhartha Sankar
...For the Respondent No.7.

Mr. Amitabha Ghosh
...For the Respondent Nos.11 &12.

Mr. N.C. Bihani
Mrs. Papiya Banerjee Bihani
...For the State.

The grievance of the petitioner is that, despite the petitioner company having acquired rights in the disputed property by virtue of a Memorandum of Understanding executed in the year 2014 and subsequently having purchased the property in the year 2020, the private respondents are illegally excavating the land of the petitioner.

Learned counsel for the petitioner submits that not only is such illegal excavation violating the right, title and interest of the petitioner but is also in contravention of extant law.

It is further submitted that, when the petitioner tried to raise a boundary wall around its property, the

private respondents obstructed the petitioner and its agents from doing so.

Learned counsel appearing for the private respondents submits that the matter is already sub-judice before a Civil Court, since the petitioner itself has filed a suit for declaration and damages.

Learned counsel for the private respondents further contends that the private respondents have purchased the property in-question in the year 2018, prior to the purchase by the petitioner company.

That apart, it is submitted that the permissions given by the Panchayat in the form of No Objection Certificates, annexed to the writ petitioner, indicate clearly that the Panchayat would have no objection if the private respondents excavate the soil in the disputed property for the purpose of cultivation.

As such, there is no scope for alleging that the excavation was illegal or for the purpose of mining or extracting minerals.

Learned counsel for the State respondent also submits that the matter pertains to a civil dispute. Since there is a dispute regarding the title of the disputed property between the petitioner and the private respondents, the police have no scope of interfering in the matter.

However, it is also submitted that the police have ensured that the peace and tranquility in the area is maintained.

It is evident from the nature of the contentions of the private parties herein that there is a dispute as regards the title to the property-in-question.

Since the matter is already sub-judice before a Civil Court, there is no scope for passing a direction on the police with regard to such property at the present juncture.

However, in the event the petitioner alleges that the excavation is being done illegally, the petitioner will be free to approach the respondent nos.2 and/or 4 with such complaint.

If so approached, the said respondents shall decide on the same upon giving opportunity of hearing to all concerned parties in accordance with law.

WPA 52 of 2021 is disposed of in terms of the above observations.

There will be no order as to costs.

Urgent photostat copies of this order, if applied for, be given to the parties upon compliance of all requisite formalities.

(Sabyasachi Bhattacharyya, J.)

