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2021

**In the High Court at Calcutta
Constitutional Writ Jurisdiction
(Via Video Conference)**

W.P.A. No. 148 of 2021

**Jamuna Mitra and another
Versus
The State of West Bengal and others**

Mr. Md. Sabir Ahmed,
Mr. Apan Saha,
Mr. Shraman Sarkar.
...for the petitioners.

Mr. Lalit Mohan Mahata,
Ms. Jhuma Chakraborty.
...for the State-respondents.

Mr. Tarak Nath Halder,
Mr. Sagnik Chatterjee.
...for the private respondent no.8.

The petitioners allege that the police are not taking any steps on the petitioners' complaint against the private respondent no.8. Learned counsel argues that, despite an injunction order passed by a civil court having been vacated subsequently in connection with the plot-in-question, the petitioners are being restrained from making construction on the said plot.

Learned counsel further relies on an order dated February 27, 2004 passed in WP 19743(W) of 2003 to contend that, pertaining to the same plot, a

co-ordinate Bench had categorically held that the Bench had lost all faith in the then Officer-in-Charge of the Baruipur Police Station. Other caustic remarks were also made. Learned counsel for the petitioners argues that such observations were made in connection with the self-same plot as involved in the present writ petition and, as such, the ratio laid down therein still has binding force.

Learned counsel appearing for the private respondent no.8 denies and disputes such allegations.

Learned counsel appearing for the State-respondents files a police report indicating that the matter is sub-judice before a civil court and that, in course of enquiry, it was found that no such petition/representation, as alleged to have been submitted by the petitioners, was received by the Police Station.

The police report filed in Court today be kept on record.

It appears from the pleadings and materials on record that the disputes between the private parties herein revolve around their respective claims of title, which is purely civil in nature. In view of a partition suit having already been filed and pending in connection with the said plot, wherein the

petitioners are also parties, it would not be prudent for the Writ Court to pass any direction on the Police Officer. Moreover, from the complaint alleged to have been made by the petitioners before the police authority (annexure P/6 to the writ petition), it is evident that the grievance of the petitioners is that they are being restrained from making construction on the disputed plot, which is already the subject-matter of a civil suit.

The contention of learned counsel for the petitioners, that the civil suit is not maintainable, cannot be dealt with by the Writ Court and it is for the petitioners to approach the civil court itself with such objection.

The order passed in WP 19743(W) of 2003 in the year 2004 was directed against the then Officer-in-Charge of the concerned Police Station, which is evident from the findings recorded in the order itself. Such remarks were specifically directed against the then existing police officers and have no relevance to the instant case, merely because the plot of land is the same.

In such view of the matter, there is no scope for interference in the writ petition, more so, since the petitioners seek a civil remedy to be given by the

police authority, which is beyond the domain of such authority.

Accordingly, WPA 148 of 2021 is disposed of with liberty to the petitioners to approach the police in the event any specific criminal act is perpetrated against them.

There will be no order as to costs.

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

(Sabyasachi Bhattacharyya, J.)