

14.07.2021.
Item no. 81.
Court No.13
ap

**W.P.A. No. 10964 of 2021
(Through Video Conference)**

**Rangalal Chakraborty
Versus
The State of West Bengal & Ors.**

Mr. Supratick Syamal,
Mr. Gourab Ghosh.

...For the petitioner.

Mr. N. C. Bihani,
Mrs. Nilofer Siddiqui Alam,
Mr. Soumyajit Ghosh.

..For the State.

Mr. Prosenjit Mukherjee,
Mr. Munshi Ashiq Elahi,
Ms. Madhurima Sarkar,
Mr. Tirthankar Mukherjee,
Mr. Saptarshi Chakraborty.

..For the respondent nos.9 to 13.

Counsel for the petitioner is aggrieved by the fact that the private respondents have illegally entered into a shop-room and have taken possession thereof.

Rival claims are made by the petitioner and the private respondents as regards title to the shop-room or the property. A decree is stated to have been obtained by the writ petitioner against certain persons. There is reference to an order passed by a Co-ordinate Bench of this Court on 1st September, 2015 in W.P. No. 27143 (W) of 2014 where it is recorded that the respondent nos.5 to 8, 10 and 11 therein had submitted that they were not in any way interested in the petitioner's property.

It is not clear before this Court as to whether the respondents in the said writ petition are the same respondents before this Court.

Be that as it may, Counsel for the State, Mr. Bihani produces instructions from the Officer-in-charge, Namkhana Police Station, Sundarban Police District dated 7th July, 2021.

It appears that an FIR was registered on a complaint lodged by the petitioner against one Bhim Bhunia, Ganesh Bhunia and Gopal Bhunia on 17th June, 2021 and a charge-sheet dated 30th June, 2021 has been filed against the said persons before the Additional Chief Judicial Magistrate, Kakdwip.

There is also a further complaint which is registered as F.I.R. No. 101 dated 24th June, 2021 by Bhim Charan Bhunia against the petitioner. The investigation into the said complaint is going on.

The right, title and interest in respect of the shop-room and/or the property claimed by the petitioner and the private respondents, cannot be decided by a Writ Court.

The parties may approach the Civil Court for any remedies including decree and execution in accordance with law.

This Court does not see any inaction on the part of the police. The writ petition appears to be an abuse of process of law since Article 226 of the

Constitution of India is invoked for the purpose of enforcing private rights.

In view of the above, the instant writ petition is hereby dismissed with costs assessed at Rs.5,100/- (Rupees five thousand one hundred only) payable by the writ petitioner to the State Legal Services Authority.

All parties are directed to act on a server copy of this order on usual undertakings.

(*Rajasekhar Mantha, J.*)