

05.10.2021
Ct. No.13
Sl. No.43
akd

W.P.A. 12495 of 2021 [via video conference]

[M/s. City Devcon Pvt. Ltd. & Ors. -Vs- The State of West Bengal & Ors.]

Mr. Suman Sengupta
Mr. Bijoy Bag

... .. for the petitioners

Mr. Anirban Ray .. Ld. Govt. Pleader
Mr. Raja Saha
Mr. Rajaram Banerjee

... .. for the State

The writ petitioner no.1 complains that the private respondents are obstructing him and preventing him from making construction on the property purchased by him. There is specific allegation against one Anup Soni in this regard.

Learned counsel appearing for the State relied upon the agreement annexed to the writ application for purchase of the property by the petitioner no.1 dated 10th August, 2009, wherefrom it appears that the entire property is tenanted and the writ petitioner no.1 reserves the right to himself to evict the tenants in accordance with law.

In that view of the matter, this Court is unable to countenance the submission that the proposed construction of the property is being obstructed by outsiders and goons. A report of the Officer-in-charge, Howrah Police Station dated 12.08.2021 has been placed before this court. The same is taken on record.

It appears that the person against whom the allegation of obstruction is made i.e. Anup Soni is himself a lawful tenant in the said premises. It is also submitted that there were already in

existence some shanties and gumties in the pathway leading to the petitioners' property prior to his purchase.

In that view of the matter, the petitioners' remedies are before the civil court.

It is however, submitted by the learned counsel for the State that proceedings under Section 107 have been initiated and assurances have been obtained to ensure that no breach of peace takes place in the area.

In those circumstances, the Officer-in-charge, Howrah Police Station shall maintain a strict vigil over the said premises and ensure that there is no breach of peace in the area. The petitioners may take suitable steps before the civil court for remedies against the private respondents.

Learned advocate appearing for the petitioners submits that though not annexed to the writ application, an order was obtained from this court on 14th July, 2021 in WPA 10950 of 2021 for police protection to be granted to the petitioner no.1 to enable him to construct boundary wall. It is submitted that the aforesaid order being passed in the instant writ application would be in conflict with the said order.

This court is of the clear view that the conflict has been engineered by the writ petitioner no.1 himself. The petitioner no.1 cannot be allowed to take advantage of his own wrong.

This court stops short of imposing exemplary and penal costs against the petitioners. There is absolutely no question of construction of any boundary wall at this stage since there are other tenants who are lawful occupants of the said premises and whose occupation of the same may be obstructed by construction of a boundary wall.

With the aforesaid observations, the writ petition shall stand disposed of.

There shall be no order as to costs.

All parties are to act on a server copy of this order duly downloaded from the official website of this court.

(Rajasekhar Mantha, J.)