

12th February,
2021
(AK)
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W.P.A. 7639 of 2020
With
IA No: CAN 1 of 2020

Samiul Sk. & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Ramdulal Manna
Mr. Sayan Mukherjee
...For the Petitioners.

Mr. Pinaki Dhole
...For the Respondent no.6.

Mr. Bhaskar Prasad Vaisya
Mr. Arindam Chattopadhyay
...For the State.

The petitioner claims title to the disputed property through one Osman Sk. (since deceased). It is submitted that in spite of the original owner Bachan having transferred the disputed property to the said Osman Sk, subsequently the said original owner transferred the property to one Budhiya.

Budhiya, despite having no title in the property since her vendor had already executed a previous transfer deed in favour of Osman Sk, re-transferred the property.

The private respondents, it is alleged, are relying on such illegal transfer by Budhiya to stake claim to the disputed property and have been disturbing the petitioner's possession and ownership in respect of the property.

Learned counsel for the petitioner submits that, despite having approached the police authorities, no action has been taken by the police in that regard.

Learned counsel appearing for the private respondent submits that a civil suit, bearing O.C No. 129 of 2013, was filed by Jhabri Dasi, the private respondent, against Osman Sk (since deceased), subsequently substituted by the legal heirs of Osman Sk. on his demise.

Such suit was ultimately decreed against the defendants therein on December 18, 2017 by the Civil Judge (Junior Division) 2nd Court at Malda.

In such view of the matter, it is submitted by learned counsel for the private respondents that the petitioners have no right in respect of the disputed property.

Even apart from the petitioner's claim being not maintainable in the teeth of the Civil Court's decree, the matter pertains squarely to a civil dispute, which has to be adjudicated on appreciation of evidence.

Neither the police authorities nor the writ court has the scope to enter into the said dispute on merits. As such, a direction upon the police authorities would be toothless and unnecessary.

Hence, WPA 7639 of 2020 is dismissed without, however, any 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.)