

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**W.P.A. No. 8737 of 2020
(Through Video Conference)**

**Ananda Shankar Ghose
-vs.-
The State of West Bengal & Ors.**

Mr. Sandipan Ganguly,
Mr. Ayan Bhattacharya,
Mr. Bhaskar Mukherjee,
Ms. Debjani Ghosh
...for the petitioner

Mr. Subhabrata Datta,
Mr. Debashis Sarkar
...for the State-respondents

Mr. Jaydip Kar,
Mr. U.N. Banerjee,
Mr. Kaushik Mandal,
Mr. Mayuk Mukherjee,
Mr. Shakti Halder
...for the respondent nos. 6 & 7

The petitioner has approached this Court with the grievance that the private respondents have been threatening the life and property of the petitioner with the assistance of armed henchmen, who are roaming about the petitioner's ancestral house, to which the petitioner has the right of possession and enjoyment as a co-owner.

Learned counsel appearing for the petitioner submits that, despite having approached the police-authorities on several occasions with such complaint, no action has been taken by the authorities in that

regard. It is further submitted that the petitioner has been residing outside the country at the relevant juncture when such goons were introduced into the house at the behest of the private respondents. When the petitioner attempted to enter the ancestral house, threats started being issued to the petitioner, prompting the petitioner to approach the police, and, on inaction on the part of the police, this Court.

Learned counsel argues that, the petitioner's right to life, as guaranteed by the Constitution of India, is under threat, since the petitioner is not being permitted to post his own security guards in the premises to protect the petitioner's possession, whereas hired agents of the private respondents have been roaming about freely in the said house.

Learned counsel appearing for the respondent-authorities filed a report, in the form of instruction, and submits that, prior to the complaint of the petitioner, the private respondents had already approached the police with complaint of theft of valuables from the property-in-question, on which appropriate investigation was started and some persons were apprehended as well. It is submitted that the disputes raised by the petitioner are civil in nature, which cannot be resolved by the police and/or the writ court.

Learned senior counsel appearing for the private respondents submits that the petitioner is trying to

vindicate his civil rights via the writ court. It is further submitted that the complaint of the petitioner primarily revolves around a threat perception on behalf of the caretaker of the petitioner and a security guard/employee of the petitioner, namely, Rabindra Nath Das alias Rabi Das. As such, it is submitted that there is no cause of action for the present writ petition.

It appears from the tenor of the complaint lodged by the petitioner that the petitioner is merely seeking to establish his possession in respect of the disputed premises. The complaint, although couched in general language of apprehension of fear and insecurity on the part of the petitioner due to goons allegedly roaming about the ancestral house at the behest of the private respondents, there is no specific instance of any incident, which may provide justification for such apprehension.

The plinth of the petitioner's writ petition is the alleged title of the petitioner to the property as a co-owner, which the petitioner seeks to protect by appointing security personnel.

Contrary to the arguments of the petitioner, the right to appoint security guards, even if justified in the context, cannot be a necessary corollary of the right to life, as guaranteed by the Constitution of India, the latter being on a much higher plane to protect the existence and well-being of Indian citizens.

Appointment of security guard may be luxury recourse as well, depending on the circumstances, without going into the merits of the petitioner's present allegation. As such, since the petitioner did not approach either a criminal court or a civil court to seek any order for preventing breach of peace and tranquility and/or vindicating the petitioner's right, title and interest in respect of the disputed property, I do not find the writ petition to be a proper remedy in the context.

In the event the petitioner has any grievance regarding the violation of the petitioner's alleged title in respect of the house-in-question vis-à-vis the private respondents, the petitioner is always at liberty to approach the competent civil court to vindicate such title and allied rights. A civil court has sufficient powers, as settled by law, to grant redress to the petitioner in the event the enjoyment and possession of the petitioner regarding the disputed property is disturbed by other co-owners and/or outsiders. However, in the circumstances of the case, the police do not have any duty to investigate into the complaint lodged by the petitioner on behalf of the petitioner's employee, which is merely an attempt to secure the possession of the petitioner.

In the circumstances, W.P.A. No. 8737 of 2020 is dismissed, with liberty to the petitioner to approach a competent civil court and/or a criminal court for

redressal of the petitioner's grievances in accordance with law.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance of all necessary formalities.

(Sabyasachi Bhattacharyya, J.)