

22.04.2021
(as)
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W.P.A.10597 of 2020
Satish Rosin & Turpentine Works & Anr.
-vs-
State of West Bengal & Ors.

Mr. Anirban Dutta,
Mr. Nilay Sengupta,
Mr. Sujit Banerjee.
...for the Petitioner.

Mr. Debajyoti Barman.
...for the Respondent No.4.

Mr. Sujan Chatterjee.
...for the Respondent No.5.

The petitioners allege inaction on the part of the police.

The grievance of the petitioners is that they are tenants under the respondent No.4 and the landlady sought to encroach the tenanted property by raising construction. The petitioners lodged complaint before the police authority. Accordingly, a police case being Bansdroni P.S. Case No.123 dated 08.12.2020 under Sections 448/421/380/34 of the Indian Penal Code was registered. It is submitted that inspite of specific case being registered, the police authorities are not taking any steps to remove the encroachment. He seeks a direction upon the police authorities for removal of the encroachment over the tenanted area.

Mr. Barman, learned Advocate appears for the private respondent no.4. It is the specific case of the private respondent no.4 that the petitioners are tenants

under her and they are in possession of the premises to the extent of their tenancy. It is submitted that the private respondent no.5 has raised construction beyond the tenanted premises. He further submits that the respondent no.4 also lodged complaint against the petitioners before the police authorities and the said complaint is also being investigated into.

It appears that the dispute between the parties is essentially civil in nature. Whether the alleged construction has been made within the tenanted premises or beyond cannot be ascertained by this Court. Such disputed facts can only be adjudicated by a competent civil Court. The police authorities also cannot be directed to remove any unauthorised construction in course of their investigation.

If the complaint made before the police discloses any cognizable offence, the police are duty bound to investigate into the case but in the name of investigation, the police authorities cannot interfere with the possession of the parties.

In view of the aforesaid, I find no merit in the writ petition.

The writ application being W.P.A.10597 of 2020 is accordingly dismissed.

There will be no order as to costs.

(Kausik Chanda, J.)

