

14.06.2021
Sl. No.59
srm

WPA No.11647 of 2020

Naba Kumar Manna

Vs.

The State of West Bengal & Ors.

Mr. Sudip Ghosh Chowdhury

...for the Petitioner.

Mr. Santanu Mitra,

Mr. Mirza Kamruddin

...for the State.

This writ petition has been filed alleging police inaction.

It is the contention of the petitioner that by an order dated January 10, 2013 passed by the learned Civil Judge (Senior Division), 1st Court, Hooghly, in Title Suit No.183 of 2009, the Officer-in-Charge, Singur Police Station was directed to see that the order of injunction directed the parties to maintain *status quo* was obeyed. It is the contention of the petitioner that the order of *status quo* passed on November 17, 2009 was not obeyed by the defendants in the suit. The defendants in the suit have been impleaded in this proceeding as the respondent Nos.4 to 7. It is the further contention of the petitioner that under the garb of repairing the roof, the defendants had tried to reconstruct the roof for which they raised objection. When objection was raised the defendants/the respondent Nos.4 to 7 threatened the petitioners. Accordingly,

a complaint was lodged with the concerned police station on November 20, 2020.

It is alleged by the petitioner that in view of the decisions of the Hon'ble Apex Court and also of this Court, the police authorities were duty bound to ensure that the order of the learned Civil Court was carried out.

It is not in doubt that the suit is a partition suit amongst co-sharers and an order of *status quo* was passed way back on November 17, 2009 and thereafter the suit has progressed. Commission has been held and an order was also passed on September 17, 2019 by the learned Civil Court granting permission to the defendants to repair the roof top and complete the same within a month.

Between 2009 to October, 2020 there was no allegation of violation of the order of *status quo*. It is only the defendants when repairing the roof the issue became contentious with regard to the violation of the *status quo* order and a complaint was lodged with the police station on November 20, 2020.

Mr. Mitra, learned Advocate for the State-respondents, submits that with regard to the complaint a prosecution has been submitted before the appropriate Court against the respondent Nos.4 to 7. He further submits that it is not for the

police authorities to monitor the nature of repair, which is entirely within the domain of the learned Civil Court.

I find from the nature of complaint that the allegation is when the petitioner objected to the nature of repair conducted by the defendants. The defendants threatened the petitioner with dire consequences. The police have intervened and have taken cognisance against the respondent Nos.4 to 7 and Mr. Mitra by submitting that an appropriate prosecution has been initiated against them.

I agree with Mr. Mitra that the nature of the repair being conducted by the defendants under an order of the Court cannot be monitored by the police authorities but, in my opinion, if the respondent Nos.4 to 7 act contrary to the permission given by the Court the petitioner is at liberty to approach before the learned Civil Court by filing an appropriate application. The police authorities shall ensure that peace and tranquillity is maintained and the petitioner is sufficiently protected. The police will ensure that none of the parties shall violate the order of *status quo* save and except as permitted by the learned Court below.

The writ petition is disposed of upon taking note of the fact that the present grievance of the petitioner has been met as

the prosecution has already been submitted before the appropriate Criminal Court.

There will be, however, no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties on priority basis.

(Shampa Sarkar, J.)