

AD. 52.
February 4, 2021.
MNS.

W. P. A. 11759 of 2020
(**Via video conference**)

Banani Adhikary and another
Vs.
The State of West Bengal and others

Mr. Supriyo Chattopadhyay,
Mr. Sudip Kumar Maiti

... for the petitioners.

Mr. Jayanta Sinha,
Mr. Bipin Ghosh

...for the respondent-authorities.

The report filed by the police authorities in
Court today be taken on record.

The petitioners have come up with a grievance that the private respondents were obstructing the construction of a boundary wall by the petitioners, despite the petitioners having a valid sanctioned plan from the concerned Municipality. Thereafter, several complaints were lodged by the petitioners and subsequently the private respondents have forcibly entered into the disputed property, in a bid to oust the petitioners, and have raised illegal constructions on the disputed property.

Learned counsel submits that the police themselves, in their reports filed before the criminal court in connection with proceedings under Section 144(2) of the Code of Criminal Procedure, had admitted that the private respondents are trying to acquire the disputed land forcibly and illegally.

Learned counsel relies in particular on the report dated February 11, 2018 filed by the ASI, Tamluk Police Station at Purba Medinipur, annexed at page- 62 of the writ petition.

However, it has been admitted by the petitioners that a civil suit is pending at the behest of the private respondents in respect of the disputed property.

Learned counsel for the petitioners submits that since the formalities as regards service of summons have not yet been completed, there was no occasion for the petitioners to appear before the civil court.

However, such contention is not acceptable. Since the petitioners are in the know of the civil litigation and have come up with a specific grievance in respect of the disputed property, which is sub judice before the civil court, there was nothing to prevent the petitioners from

approaching the civil court for appropriate remedy. Since the matter is pending adjudication before a competent civil court, no action could be taken by the police in aid of the petitioners' grievances against the private respondents, since no order in that regard has been passed by the civil court, which is in seisin of the matter.

As such, this court finds no fault with the action of the police authorities in that regard.

Accordingly, W. P. A. 11759 of 2020 is disposed of by granting the petitioners liberty to approach the civil court with the grievances ventilated in the present writ petition. If such an approach is made, the civil court shall consider the petitioners' prayers in accordance with law without being influenced in any manner by any of the observations made herein.

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 with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)