

Court No. 2

27.09.2021

(Sl. 104)

(S. Banerjee/BP)

**Calcutta High Court
In the Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction**

WPA 975 of 2021

Laltu Kumar Yadav
Vs.
The State of West Bengal & Ors.

(Via Video Conference)

Mr. Deborshi Dhar

....for the petitioner

Mr. Subir Kumar Saha

Mr. Momenur Rahman

....for the State

The matter reveals in an unfortunate turn of event.

There is a dispute between the petitioner and the private respondent as regards 15 cottahs of land. Both sides claim that the same piece of land falls in their plot numbers. Both are in occupation of portions of the property. The private respondent first obtained orders of the Executive Magistrate under Section 144 of the Code of Criminal Procedure. For some strange and unexplained reason the Executive Magistrate directs the Block Land and Land Reforms Officer ('BLLRO', for short) of the area to demarcate the land in question. The BLLRO complies.

As to how the Executive Magistrate gets this power to direct the BLLRO to do the above, is baffling.

The private respondent then launched a civil proceeding, being T.S. No. 78 of 2020 before the learned Civil Judge (Junior Division), Siliguri against the writ petitioner in respect of title to the said 15 cottahs of land. The Civil Court directs parties to maintain status quo by order dated 25th February, 2021.

The private respondent thereafter lodged a complaint which was registered as an FIR, being no. 122 of 2021 dated 4th March, 2021 with the Pradhan Nagar Police Station. There are other FIRs also being Nos. 292 of 2021 dated 20th May, 2021 and 735 of 2021 dated 15th September, 2021 registered with the Pradhan Nagar Police Station against the petitioner.

Armed with the aforesaid FIRs and on the pretext of enforcing an order of the Civil Court the Pradhan Nagar Police Station on its own and without any order of the Civil Court enters into the suit property and removes certain structures. Padlocks are also placed on some portions of the property.

It is shocking and surprising to this court as to how and under what authority the police acted

on above. If the Civil Court's order is being violated, it is for the parties to approach the Civil Court to seek its enforcement. It is only upon a direction of the Civil Court could the police have taken any step to enter into the property. The only exception to the above is a law and order problem. No such problem existed.

This court's mind is not free from doubt that the officials of the Pradhan Nagar Police Station have acted for collateral purposes.

Let a copy of this order be sent by the registry along with a copy of the writ application to the Commissioner of Police, Siliguri. The Commissioner shall enquire into the concerned officials on the Pradhan Nagar Police Station and the Executive Magistrate of the area take suitable action.

The parties shall forthwith approach the Civil Court and the court below shall ensure restoration of status quo ante as on 25th February, 2021.

With the above observation and direction, the writ application is disposed of.

There shall be no order as to costs.

(Rajasekhar Mantha, J.)