

S/L 180
27.06.2022
Court. No. 19
GB

WPA 522 of 2022

Sk. Badrul Haque & Ors.
VS
The State of West Bengal & Ors.

Mr. Suvro Prokasha Lahiri,
Sk. Nizamuddin,
Ms. Barnali Gupta.

...for the Petitioners.

Mr. Tarun Kumar Ghosh.

...for the State.

Mr. Animesh Das.

...for the Respondent Nos.6 to 10.

Affidavit-of-service filed in Court today, be kept with the record.

The allegation is that, the erection of a bamboo fence by the respondent nos.6 to 10 on the disputed plot was completed with the aid, advice and support of the Sub-Inspector, Jagache Police Station. The said Sub-Inspector is the respondent no.5.

It is submitted by Mr. Lahiri, learned advocate appearing on behalf of the petitioners, that even if, there were disputes with regard to title and demarcation of the property, the respondent Nos.6 to 10 were guilty of commission of offences punishable under the Indian Penal Code. He alleges criminal trespass.

Mr. Das, learned advocate appearing on behalf of the respondent nos.6 to 10 submits that the dispute is with regard to right, title and interest in respect of the property in question. Title Suit No.138 of 2022 has been filed by the said respondents before the learned Civil Judge (Junior Division), 6th Court at Howrah. It is a suit for declaration of

tile and permanent injunction. Such suit has been filed against the petitioners.

The police report is taken on record. It appears that on the basis of the direction of the learned Magistrate, enquires were made and prosecution under Sections 107/116(3) of the Code of Criminal Procedure was submitted against all the parties. It has been specifically stated by the police authorities that an altercation took place with regard to erection of a bamboo fencing by one Hazi Nazrul Islam Mondal and his brothers. The police authorities went to the locale and took steps to control the situation. The police authorities submitted that a serious law and order issue had occurred. The police authorities had been able to control the situation.

Having heard the learned advocates for the respective parties, this Court is of the view that question of encroachment, shall be decided by the civil court. The right of the petitioner to challenge such alleged encroachment, will be adjudicated in the civil suit and the petitioner is at liberty to file applications for interim protection of the property in question.

However, the police authorities are bound to ensure that law and order is maintained and no untoward incident takes place in future. The Officer-in-Charge, Jagacha Police Station shall himself look into the matter and maintain a strict vigil. The police authorities shall take all actions, in case further law and order problem occurs in the area in question.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

All the parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)