

22.07.2022
Sl.No.1(SL)
srm

W.P.A. No. 1220 of 2021
With
CAN 1 of 2022
Amalendu Pal & Ors.
Versus
The State of West Bengal & Ors.

Mr. Golam Mastafa,
Mr. Tarasankar Samanta

... for the Petitioners.

Ms. Jayeta Sinha,
Mr. Sandip Mandal

...for the State-respondents.

Ms. Manasi Biswas,
Mr. Anowar Ali

...for the Respondent Nos.5 to 8.

Re: CAN 1 of 2022

This is an application for expunging the name of the petitioner No.2, upon recording his death.

It is submitted by Mr. Mastafa, learned Advocate appearing on behalf of the applicants/petitioners, that the heirs and legal representatives of the petitioner No.2 are not interested to proceed with the writ petition.

Hence, the application is allowed by expunging the name of Omprakash Pal, petitioner No.2 from the writ petition.

The writ petition will continue only in the name of the petitioner Nos.1, 3, 4 and 5.

The department is directed to take necessary steps.

The application being CAN 1 of 2022 is disposed of.

W.P.A. No.1220 of 2021

The petitioners allege inaction of the Inspector-in-Charge, Domkal Police Station. According to the petitioners, although two complaints were filed on December 20, 2020 and December 29, 2020, the police authorities have failed and neglected to take steps. The petitioners allege that whenever the petitioners have tried to cultivate on their lands, measuring about 58 decimals in Plot Nos.331, 333, 334, 335, 335/828 within Mouza Chandpur, Police Station Domkal, District-Murshidabad, the respondent Nos.5 to 8 have not only disturbed the petitioners, but also threatened the petitioners with dire consequences.

Learned Advocate for the respondent Nos.5 to 8 denies such allegations and submits that the vendor of the respondent Nos.5 to 8 were the recorded owners of the plots in question and upon purchase thereof, the respondent Nos.5 to 8 have exclusive right over of the plots in question. They claim to be in possession.

The police report is taken on record. It appears that there is a dispute with regard to the right, title and possession of the property. The petitioners had also filed a

suit before the learned Civil Judge (Senior Division) at Berhampore, Murshidabad being Title Suit No.28 of 2019. The police authorities having found that the dispute is civil in nature had directed the parties to comply with the order of the learned civil court, if any. However, apprehending breach of peace, prosecution under Section 107 of the Code of Criminal Procedure against one Anarul and three others had been submitted *vide* Domkal PS PR No.41 of 2021, dated January 9, 2021.

Having heard the learned Advocates for the parties, this Court finds that the petitioners have not been able to substantiate whether any ad interim order of injunction or *status quo* protecting their right, title and interest with regard to the alleged property, had been passed or not.

Under such circumstances, it would not be proper for the writ court to pass any order in the nature of an injunction, which is yet to be passed by the learned civil court. Moreover, the respondent Nos.5 to 8 have claimed alternative title to the property in question, on the basis of the purchase deed. These issues cannot be decided either by the writ court or by the police authorities.

However, the police authorities are duty bound to keep a strict vigil in order to ensure that law and order is

maintained and the parties do not enter into further altercation, over such dispute.

The writ petition is, thus, disposed of.

There will be no order as to costs.

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

(Shampa Sarkar, J.)