

09.06.2022
Court No. 19
Item no.35
CP

WPA No. 2087 of 2022

Liton Bhowmick
Vs.
The State of West Bengal & ors.

Mr. Anindya Bose
Mr. Diptendu Mandal
Mr. Nikhil Gupta
Mr. Arindam Pouli

....for the petitioner.

Mr. Amitesh Banerjee
Mr. Tarak Karan

.....for the State.

Mr. Subrata Mukhopadhyay
Mrs. Basobi Roychoudhury

...for the respondent nos. 5 to 7.

The affidavit of service and the supplementary affidavit are kept on record.

It appears that a civil suit is pending between the petitioner and the respondent no. 5. The respondent no. 5 claims to be the owner of the building situated at Premises No. 5 No. Khalisakota Pally, Police Station – Dum Dum. The petitioner claims co-sharership in respect of the said premises.

As the petitioner attempted to make a pucca construction without any permission, the respondent no. 5 filed a suit for eviction of the petitioner. According to the respondent no. 5 the petitioner is a

licensee and he was trying to construct on the premises.

It is submitted by the petitioner that the respondent nos. 5 to 7 have been disturbing the peaceful possession of the petitioner in respect of the premises in question.

Such allegation is denied by Mr. Mukhopadhyay, learned advocate appearing on behalf of the respondent nos. 5 to 7. According to him, the petitioner is at liberty to reside in the premises in which he was originally residing and he cannot make any pucca construction.

Reliance is also placed on the order of injunction passed by the learned Civil Judge (Junior Division), Bidhannagar dated December 7, 2021 in Title Suit No. 336 of 2021, by which the petitioner, who was the defendant in the said suit, was restrained from changing the nature and character of the suit property.

It is submitted by the police authorities that prosecution under Section 107 Cr.P.C. had been registered against both the parties, thereby directing the parties to maintain peace and tranquility.

Under such circumstances, the court does not find that there is any police inaction. There is a private dispute between the parties.

The petitioner is at liberty to reside in the premises which was originally allotted to him. His rights will be determined by the civil court. This court cannot allow the petitioner to make any construction. If the petitioner has any prayer with regard to protection of the roof and repairing of the roof etc., the petitioner is at liberty to approach the civil court in accordance with law, for appropriate relief.

This order is restricted for the disposal of the writ petition and any observation made herein, shall not prejudice the suit.

The writ petition is disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)