

S/L 41
10.06.2022
Court. No. 19
GB

WPA 3045 of 2022

Md. Hossain & Anr.
VS
The State of West Bengal & Ors.

*Md. Nauroz Rahber,
Ms. Anjana Mehebab,
Muhammad Jawwad.*

...for the Petitioners.

*Ms. Chaitali Bhattacharya,
Ms. Sanjukta Samanta.*

...for the State.

*Mr. Ashis Kumar Chowdhury,
Mr. Subrata Bhattacharya,
Mr. Rohan Paul.*

...for the Respondent No.4.

*Mr. V. Bose,
Mr. S. Abedin,
Ms. Pooja Singh.*

...for the Respondent No.5.

Mr. Mrityunjay Chatterjee.

...for the Respondent Nos. 6 & 7.

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

The petitioners are the parents of deceased Tarik Parwez. The allegations are that the respondent nos.4 to 7 have committed cognizable offences, assaulted the petitioners, misappropriated funds and also deprived the petitioners' rightful claim in the estate of the deceased Tarik Parwez.

The petitioners approached the Inspector-in-Charge, Suri Police Station, Birbhum. The Inspector-in-Charge, Suri Police Station initiated Suri P.S. Case No. 299 of 2021 dated August 7, 2021 under Sections

341/323/307/504/120B/406/34 of the Indian Penal Code. The allegation is that the police authorities have failed and neglected to take steps despite the complaint having been filed by the petitioners. It also appears that prosecution vide Suri PS NCR No.1423 dated December 21, 2021 under Sections 107/116 (C) of the Code of Criminal Procedure has also been submitted. Investigation has been completed and a charge-sheet has been filed vide CS No.399 of 2021 dated September 30, 2021.

In the report, the police authorities have also mentioned that they are keeping a strict vigil and close watch over the property and the situation is under control.

The dispute is mainly with regard to the distribution of the property of the deceased son of the petitioners. The police authorities have also mentioned that they are willing to assist the petitioners, if the situation so arises.

Mr. Rahber, learned advocate appearing on behalf of the petitioners submits that the police investigation has not been conducted in a proper manner. The police ought to have investigated into the allegations of misappropriation of funds. The petitioners have a remedy before the criminal court, if they are aggrieved by the contents of the chargesheet.

Md. Hossain, learned advocate appears on behalf of one of the son-in-laws, and seeks to intervene to support the petitioners' cause. He also submits that the matter relates to criminal mis-appropriation.

Mr. Bose, learned advocate appearing on behalf of the respondent no.5 submits that the entire dispute is with regard to the distribution of the insurance claim and the assets of other businesses of the deceased. He submits that two civil suits are pending before the respective civil courts at Birbhum.

Mr. Chowdhury, learned advocate appears on behalf of the respondent no.4 and submits that his client has been wrongly implicated in this case, only because she was protecting the widow of the deceased brother. It is submitted that the petitioners have also received considerable amount against the insurance claim.

Mr. Chatterjee, learned advocate for the respondent nos.6 and 7 submits that his clients are the staff of the deceased and they do not have any involvement in the property dispute between the family members.

Having heard the rival contentions of the parties, this Court is of the view that the issue with regard to distribution of the insurance claim shall be decided in Money Suit No.7 of 2022, which is pending before the learned Civil Judge (Senior Division), Sadar Court at Birbhum and in Title Suit No.16 of 2022. It is also apparent from the pleadings that the factum of filing of the suits have been suppressed in the writ petition. The averments also indicate that the dispute is with regard to the property. The police authorities upon enquiry, have also come to such conclusion.

Thus, this Court is of the opinion that the dispute with regard to the distribution of the shares of the property of the

deceased son of the petitioners shall be decided in accordance with law by the appropriate forum. The insurance claim shall be governed by the insurance laws and the policies and in the pending suits. Thus, the question of interference by either this Court or the police authorities with regard to the distribution and claim over the assets of the deceased, does not arise. The police authorities have already indicated that they are willing to protect the petitioners, so that they are not unnecessarily harassed by the respondent nos.4 to 7.

Under such circumstances, the writ petition is disposed of with a direction upon the Inspector-in-Charge, Suri Police Station to ensure that law and order is maintained by the parties and no untoward incident takes place.

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.)