

S/L 58
10.06.2022
Court. No. 19
GB

WPA 4526 of 2022

Sk. Abdul Kader
VS
The State of West Bengal & Ors.

*Mr. Gazi Faruque Hossain,
Mrs. Ranjana Har Chowdhury,
Mrs. Chndra Paul,
Ms. Priyanka Mondal.*

...for the Petitioner.

*Mr. Amitesh Banerjee,
Ms. Ipsita Banerjee.*

...for the State.

Mr. Masud. Karim.

...for the Respondent Nos.4 & 5.

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

The petitioner alleges that the petitioner and the vendors of the respondent nos.4 and 5 were co-owners in respect of the land situated at Mouza-Ghatampur, Hooghly. The petitioner was the owner of 23 decimals and the vendors of respondent nos.4 and 5 were the owner of 14 decimals. The entire 37 decimals was allegedly sold off to the respondent nos.4 and 5. Hence, it is prayed that as the respondent nos.4 and 5 do not have any right, title and interest over the 23 decimals of land, which belong to the petitioner, the police authorities be directed to protect the petitioner's peaceful enjoyment of the property.

Complaint was lodged before the police authorities. It is alleged that the police authorities did not take any steps and as such, the writ petition has been filed for directions upon the police.

Reliance is also placed on the mutation certificate, which had been granted in the name of the respondent nos.4 and 5 and the petitioner in order to substantiate such claim.

Mr. Karim, learned advocate appearing on behalf of the respondent nos.4 and 5 submits that by two separate deeds of conveyance, the respondent nos.4 and 5 became the owner of the entire 37 decimals of land. Mutation in respect of the other 23 decimals is pending before the appropriate authority.

The police authority submits that the dispute is with regard to the co-sharership, title and illegal transfer.

Thus, neither the writ court nor the police authorities can determine the right, title and interest of the petitioner or pass necessary orders with regard to possession. The remedy of the petitioner would be to file a civil suit. However, as the police authorities have already submitted a prosecution under Section 107 of the Code of Criminal Procedure, the parties are directed to maintain peace and tranquillity and to further ensure that law and order is maintained.

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.)