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22.02.2022
TN

WPA No.4483 of 2020

Pradip Pal and another
Vs.
The State of West Bengal and others

(Via Video Conference)

Mr. Ziaul Islam

.... for the petitioners

The receipt of service of the exception on the learned Advocate appearing for the State-respondents be kept on record.

None appears for the respondents, although the petitioners are represented through counsel, at the time of call.

The stand of the State through the police authorities, as reflected from the police report, has been apparently a bit sketchy. In the exception/affidavit-in-reply thereto, the petitioners have pointed out all details. It is alleged by learned counsel for the petitioners that the police are trying to shield the private respondents, who are influential persons in the area. It is further submitted that, due

to grievous hurt inflicted by the men and agents of the private respondent, one of the petitioners lost his hearing.

For such incident, a criminal case is allegedly going on against the concerned parties.

Be that as it may, the writ court ought not, under normal circumstances, to enter into the merits of the criminal allegations levelled by the parties against each other.

It is evident from the order of the Sub-Divisional Officer (Sadar), Berhampore, District: Murshidabad dated July 30, 2019, which has been annexed to the present writ petition, that, pursuant to a previous order of a coordinate Bench of this court, the Sub-Divisional Officer had specifically directed that the unauthorised encroachment by the private respondent on the land-in-question was to be removed within thirty days from such order. However, it appears from the records and from the police report that such direction has not been effectively complied with.

Even the police report suggests that some portion of the encroachment was removed. The police even takes a defence on behalf of the private respondent, stating in the report that some days are required to remove the whole house as the private respondent is a homeless person except this house.

Although the police report evokes sufficient sympathy for the private respondent, that *ipso facto* does not give a licence to the private respondent and the police authorities to blatantly flout repeated directions of this court as well as the Sub-Divisional Officer for removal of the encroachment. The order of the Sub-Divisional Officer was dated July 30, 2019, after which almost two-and-half years have elapsed. It is unfortunate that sympathy of the police authorities have overridden the provisions and mandate of law.

As such, WPA No.4483 of 2020 is allowed, directing the respondent no.5, that is, the Officer-in-Charge of the Beldanga Police Station to immediately comply with the order of the Sub-Divisional Officer dated July 30, 2019 as annexed at page-34 of the writ petition.

It is made clear that such entire exercise of removal of the encroachment shall be completed by respondent no.5, with adequate forces, if necessary, latest by March 15, 2022.

The petitioners shall immediately communicate this order, along with a server copy thereof, on the respondent nos.5 and 6 to ensure implementation of the same. Upon such service, the respondent nos.5 and 6 shall act on the said communication of the learned Advocate of the petitioners, along with server

copy, without insisting upon prior production of a certified copy of the order, for the purpose of implementation of the same.

It is made clear that in the event the respondent no.5 again flouts the specific direction as given above, the respondent no.5 shall be running the imminent risk of being guilty of contempt of court.

There will be no order as to costs.

Urgent photostat certified copies of this order, if applied for, be made available to the parties upon compliance with the requisite formalities.

(Sabyasachi Bhattacharyya, J.)