

S/L 34

13.6. 2022

Court. No. 19

 sn

WPA 7437 of 2021

Animesh Mukherjee

Vs.

The State of West Bengal & Ors.

Mr. Arun Shaw

... for the Petitioner

Mr. Santanu Kumar Mitra

Mr. Mirza Kamruddin

... for the State.

Mr. Animesh Paul

..for the respdts.5-7

The petitioner claims to be owner of the land in Dag no.1624 pertaining to Khatian no.1442, J.L. no. 67, Mouza Baduria, District North 24 Parganas.

The allegation is against the Officer-in-Charge, Baduria Police Station. According to the petitioner, the respondent nos. 5 to 7 having illegally occupied the land adjacent to the portion purchased by the petitioner. A brick wall has been constructed. A civil suit was filed by the owner of the said land, namely, one Suvash Mukhopadhyay. The suit was decreed. The respondent no.5 preferred an appeal and the title appeal was dismissed and the second appeal which was preferred by the respondent no.5 was also dismissed. Accordingly, an execution case was filed by said Suvash Mukhopadhyay, which is pending.

Mr Paul, learned advocate for the respondent nos.5 to 7 submits that an application under Section 47 of the Code of Civil Procedure is pending in the execution case.

Mr. Mitra, learned advocate for the State respondents files a report prepared by the Officer-in-Charge, Baduria Police Station, from which it appears that the respondent nos.5 to 7 were dumping some garbage which was causing inconvenience to the petitioner.

Accordingly, this Court is of the view that the dumping garbage on the lands of the petitioner or adjacent thereto, is a public nuisance. The issue with regard to the title of the respondent nos. 5 to 7 is sub judice before the execution court. However, the respondent nos. 5 to 7 cannot prevent the petitioner from enjoying the petitioner's property and any kind of nuisance cannot be permitted.

Under such circumstances, this writ petition is disposed of with a direction upon the Officer-in-Charge, Baduria Police Station to ensure peace and tranquillity and further ensure that the respondent nos. 5 to 7 do not commit any nuisance which shall cause health hazards.

The police report is taken on record.

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.)