

02.08.2022
Sl. No.382(ML)
srm

W.P.A. No. 7644 of 2021
With
CAN 1 of 2021
Sudipta Kumar
Versus
The State of West Bengal & Ors.

Mr. Arun Kumar Ray,
Mr. Subrata Biswas

...for the Petitioner.

Mr. Ashim Kumar Ganguly,
Ms. Karabi Roy

...for the State-respondents.

Ms. M. Maity

...for the Respondent Nos.3 & 4.

Mr. K.M. Hossain

...for the Applicant.

The petitioner has made incorrect statements before this Court and has suppressed material facts. The petitioner prays for police protection in order to stop an alleged construction of a godown.

The petitioner and his family members claim to be the lawful owners of certain land situated at RS Dag No.16371 corresponding to LR Dag No.16235 of Mouza-Bally, District-Howrah. The petitioner is claiming through one Ajit Kumar. It appears that a title suit is pending being Title Suit No.71 of 2001 before the learned Civil Judge (Junior Division), 1st

Court at Howrah. Some of the alleged '*shebait*s' filed the suit against the petitioner as also the respondent Nos.3 and 4.

The subject matter of the writ petition is also the subject matter of the suit. It appears that one Rajib Kumar, the applicant No.2 herein, has been appointed as the receiver. Initially the petitioner and Rajib Kumar were appointed as joint receivers, by the competent court. As the petitioner failed to comply with the directions of the court, the name of the petitioner was removed and Rajib Kumar was appointed as the sole receiver. The said fact is also admitted by the respondent Nos.3 and 4, who are the defendants in the suit. Rajib Kumar is one of the plaintiffs in the title suit. All these facts have been suppressed.

Rajib Kumar has filed an application for addition of party.

Such prayer is allowed and the application being CAN 1 of 2021 is disposed of accordingly.

The department is directed to add the applicant as the added respondent No.5 in the writ petition.

Both the learned Advocates for the respondent Nos.3 and 4 and the added respondent submit that the petitioner has been trying to construct a godown, which was obstructed by the '*shebait*s' and hence the writ petition has been filed for police assistance.

In any event, the receiver is in-charge of the property in question, as per the direction of the civil court. If there are any illegal activities on the said land, the receiver is at liberty to take appropriate steps for the protection of the '*debutter*' property, in accordance with law.

The writ petition is dismissed not only on the ground of suppression of material facts but also for misleading the Court.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)