

26.05.2022
SL No. 6
Court No. 06
(Vacation Bench)
AD/PM

**In The High Court At Calcutta
Constitutional Writ Jurisdiction
Appellate Side**

**WPA No. 7290 of 2022
Bibekananda Pal & Ors.**

Vs

The State of West Bengal & Ors.

Mr. Sankar Nath Mukherje,
Mr. Niraj Gupta,
Mr. Priyabrata Saha,
Mr. Aditya Biswas
... for the petitioners.

Mr. Amal Kumar Sen, AGP,
Mr. Jaladhar Das,
Mr. Lal Mohan Basu
... for the State.

Mr. Sankar Nath Mukherjee, learned advocate appears for the petitioners and he files an affidavit-of-service which is taken on record.

Learned advocate appearing for the petitioners submits that the mother of the petitioner, namely, Ashoka Rani Pal received funds under the Pradhan Mantri Awas Yojana for the purpose of construction of her house. The said construction was stopped by the local panchayet by issuing stop work notice and thereafter Ashoka Rani Pal, since deceased, filed a writ application being WPA 8175 of 2020 wherein a Co-ordinate Bench of this Court directed the police authorities to provide adequate protection for completion of the repairing work in her existing house

at the plot in question. However, in spite of such direction of the Hon'ble Court the police authorities after the demise of his mother are not cooperating and assisting in the work of repair as directed by the Hon'ble Court. In view of his above submission he prays for passing appropriate directions upon the police authorities for extending assistance in order to undertake the repairing work in the said premises.

Learned advocate for the State places the report of Officer-in-charge of Burwan Police Station, Murshidabad dated 26th April, 2022 which is kept on record.

In reply to the contention raised on behalf of the petitioners Mr. Amal Kumar Sen, learned advocate appearing on behalf of the State submits, on instruction, that the present petitioners came up before the Hon'ble Court with the similar prayer in Writ petition being WPA No. 7124 of 2020 which was dismissed by observing that it is meritless and has been filed with an ulterior motive. He further submits referring to the order of Co-ordinate Bench passed in WPA 8175 of 2020 that the dispute is between the private parties and is of civil in nature and the Hon'ble Court in the said writ petition gave liberty to the contesting parties to approach the competent civil Court to vindicate their right, title and interest.

Moreover, the complaint annexed to the writ petition is against the other co-sharers who are obstructing the petitioners and the police has little scope to decide over the matter as the appropriate forum left to the petitioners is the civil court which will decide the right, title and interest of the petitioners.

It is found from the report submitted by the State that previously a case under Section 144/107 of the Cr.P.C. being MP Case No. 969 of 2020 was initiated at the instance of one Dilip Pal and others against whom the complaint dated 18.04.2022 has been lodged by the petitioners.

Considering the averments and reports as well as the complaint of the petitioners dated 18.04.2022, it appears that the entire dispute is civil in nature by and between the co-sharers. Accordingly, the present writ application being WPA 7290 of 2022 is dismissed with the aforesaid observations.

Urgent photostat certified copy of this order, if applied for, be given to the parties on completion of usual formalities.

(Bivas Pattanayak, J.)