

S/L 17
06.06.2022
Court. No. 19
GB

WPA 9769 of 2021

Ashok Pal
VS
The State of West Bengal & Ors.

Mr. S Banerjee,
Mr. Dyutimoy Paul.

...for the Petitioner.

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

The allegation of the petitioner is that the respondent nos.5 to 8 have forcefully tried to excavate earth from the land adjoining the house of the petitioner, yet the police authorities failed to take steps despite several complaints. It has been further alleged that the petitioner was threatened with dire consequences. The petitioner and the respondent nos.5 to 8 are co-owners of plots of land in Mouza-Radhakrishnapur, pertaining to L.R. Plot No.970, 969, 969/1162. That the said persons have been possessing the land on the basis of an oral partition and an amicable settlement.

The petitioner submits that despite such amicable settlement, the respondent nos.5 to 8 have trespassed into the property of the petitioner and have been trying to forcefully excavate earth. Such action had caused damage to the property of the petitioner. Some trees have been felled by the said respondents. The petitioner made several complaints before the authorities of Patharpratima Police Station. Although, a general diary was entered, the police

authorities have not taken any steps by registering an FIR. Hence, this writ petition has been filed.

Having considered the nature of the complaint, this Court is of the view that the dispute between the parties is with regard to the possession, enjoyment and partition of a common property. The petitioner has mentioned specifically that while the excavation of earth was going on, the petitioner tried to amicably settle the matter and when the parties failed to resolve the dispute amicably, the petitioner was forced to lodge a complaint before the police.

Having gone through the pleadings and the background of the case, which gave rise to the filing of the complaint before the police authorities, this Court is of the view that the appropriate remedy of the petitioner would be to approach the learned Magistrate under Section 156(3) of the Code of Criminal Procedure.

Accordingly, the writ petition is disposed of.

However, there will be no order as to costs.

Parties are directed to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)