

16.06.2022
Sl. No.68
srm

W.P.A. No. 8481 of 2022

Balaram Bag

Versus

The State of West Bengal & Ors.

Mr. D.K. Adhikari,
Mr. Debdip Adhikari

...for the Petitioner.

Mr. Raja Saha,
Mr. Bivekananda Tripathi

...for the State-respondents.

Affidavit-of-service is taken on record. The respondent No.6 has refused service. The postal article is also taken on record.

The petitioner alleges that the police authorities have threatened the petitioner and obstructed the petitioner's entry to LR Plot No.437, which corresponds to RS Plot No.307. It appears that a title suit is pending between the petitioner and the respondent No.6 being Title Suit No.1132 of 2020. An ad interim order was prayed for by the petitioner. By an order dated December 7, 2020, the learned Civil Judge (Junior Division), 6th Court at Howrah restrained the defendants and their men and agents from disturbing the peaceful possession of the petitioner with regard to RS Plot No.307 situated at Mouza-Jagacha.

The petitioner contends that despite the order of the learned Civil Judge, the police authorities have prevented the petitioner from enjoying his own land. It is further submitted that the defendants have not been appearing in the suit, but on the other hand, have filed proceedings under Section 144(2) of the Code of Criminal Procedure, on false allegations.

The police authorities have filed a report, from which it appears that on the basis of the direction of the learned Executive Magistrate, 2nd Court at Howrah in connection with MP Case No.254 of 2022, an enquiry was made by the police authorities and a report was filed before the learned Executive Magistrate. The police authorities enquired in respect of the land situated at LR Dag No.304. The civil suit is with regard to the RS Dag No.307 corresponding to LR Dag No.437 as has been pleaded, averred and submitted by the petitioner. The dispute with regard to the LR Dag No.304 and the eight feet wide passage over which the respondent No.6 claims to be the owner is not the subject matter in the civil suit. Upon enquiry, breach of peace was apprehended and report for prosecution under Section 107 of the Code of Criminal Procedure has been submitted against the petitioner.

The next date before the learned Executive Magistrate is July 28, 2022. The petitioner is at liberty to approach the learned Magistrate for appropriate orders and directions in this regard.

It is made clear that the police authorities shall not disturb the petitioner with regard to the petitioner's use and possession of RS Dag No.307 in Mouza-Jagacha, in view of the order of the learned civil court.

This order is subject to any further order that may be passed by the civil court in the application for temporary injunction. As of now, the learned civil court has only passed an ad interim order of injunction.

The writ petition is, thus, disposed of.

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.)