

20.07.2022
Sl.No.456(ML)
srm

W.P.A. No. 8792 of 2022

Safiqua Alam Mallick

Versus

The State of West Bengal & Ors.

Sk. Abu Abbas Uddin,
Ms. Ambiya Khatoon,
Mr. Nahid Rahaman

... for the Petitioner.

Mr. Nilotpal Chatterjee,
Mr. Amirt Lal Chatterjee

...for the State-respondents.

Mr. Pankaj Halder,
Mr. Subhrangshu Maiti

...for the Respondent Nos.8 & 9.

Affidavit-of-service is taken on record.

The petitioner alleges that the police authorities of the Chanditala Police Station have failed and neglected to take steps on the basis of the complaint filed by the petitioner. The allegation is that the petitioner and the respondent Nos.8 and 9 are the joint owners of a piece of land, which is a bamboo garden. Without obtaining any sanction and without any permission from the appropriate authority and also without permission from the co-owners, a construction was made and completed. Reliance has been placed on an order passed by the learned Sub-Divisional Executive Magistrate, Serampore, Hooghly

dated April 1, 2022. It appears that Block Land and Land Reforms Officer, Chanditala was directed to file a report. The respondent Nos.8 and 9 were also restrained from raising any construction without any sanction plan from the competent authority. The police report is taken on record.

Learned Advocate for the respondent Nos.8 and 9 has produced the sanction plan issued by the concerned gram panchayat dated July 12, 2022. It is further submitted that a title suit being Title Suit No.196 of 2022 has been filed by the petitioner before the learned Civil Judge (Junior Division), 3rd Court at Serampore. It appears that the prayers in the suit also relate to stoppage of the alleged construction, which according to the petitioner, is unauthorised.

In any event, it is not for the police authorities to take steps with regard to an unauthorised construction unless the competent authority prays for police assistance. Upon receipt of the complaint filed by the petitioner and on the direction of the learned Sub-Divisional Executive Magistrate in Misc. Case No.218 of 2022, an enquiry was made. The police found that there was every chance of breach of peace and Chanditala Police Station NCR No.892 of 2022 dated May 29, 2022 was submitted under

Sections 107 and 116(3) of the Code of Criminal Procedure before the learned Court below.

The police authorities will keep a vigil in order to ensure that breach of peace does not take place. The allegation of unauthorised construction has to be made before the appropriate sanctioning authority. The suit will proceed in accordance with law, without being influenced by this order. Whether construction was made prior to sanction or after sanction and in accordance with the plan and the rules, cannot be adjudicated by this court.

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.)