

S/L 32
5.7.2022
Court. No. 19
sn

WPA 10687 of 2022

Ashok Bhattacharyya & Ors.
Vs.
The State of West Bengal & Ors.

Mr. Sudip Ghosh Chowdhury
Mr. Ahishek Bose ... for the petitioners

Mr. Soumitra Mukherjee
Ms. A. Pandey ..for the State

Mr. Pratip Mukherjee
Mr. Omar Faruk Gazi
Ms. Rima Banerjee ..for the pvt. Respdts.

This writ petition has been filed alleging that the police authorities were duty bound to restore the possession of the petitioners' property. It has been specifically contended that a civil suit for declaration of right, title and interest of the petitioners in respect of 2/3rd of the property, is pending. The learned Civil Judge having found the petitioners to be in possession of the property in question, had restrained the defendants (respondent nos. 4 to 7) from dispossessing the petitioners. It appears that the said order was vacated by an order dated April 7, 2022. Such order has not been challenged by the petitioners.

At this juncture, the petitioners argue that the respondent nos. 4 to 7 by taking advantage of vacation of the interim order of injunction, had forcefully ousted the petitioners from their portions of the suit property.

Mr. Mukherjee, learned advocate for the respondent nos.4 to 7 submits that there are criminal

cases pending against the petitioners, counter cases are also pending. That the issue has to be decided by the learned civil court. The prayer for restoration of the possession of the petitioner, should not be allowed.

Under such circumstances, this Court is of the view that although the learned Civil Judge had found the petitioners to be in possession of the suit property, the issue whether the petitioners were subsequently driven out from the property, has to be decided before the learned civil court and if such allegation is proved to be true, the learned civil court has ample power to restore such possession during the pendency of the suit. However, the police authorities are directed to keep a vigil and ensure that law and order is maintained in an around premises no. 105/A, Tertha Bharati, Sodepur, Police Station Ghola, District North 24 Parganas.

The complaint filed before the Inspector -in-Charge, Ghola Police Station indicates that there are allegations of trespass, theft etc. against the respondent nos.4 to 7. The said complaint dated May 13, 2022 shall be considered and disposed of by the Inspector -in-Charge, Ghola Police Station, in accordance with law.

This order shall not be construed as an observation on the merits of the allegations of the petitioners.

Since no affidavit-in-opposition has been filed the allegations made in this writ petition against the respondents are deemed to be denied.

This writ petition is disposed of .

There will be, however, no order as to costs.

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

(Shampa Sarkar, J.)