

IN THE HIGH COURT AT CALCUTTA
CIVIL APPELLATE JURISDICTION

(Appellate Side)

MAT 866 of 2021
With
IA CAN 1 of 2021

(Through Video Conference)

Reserved on: 20.01.2022

Pronounced on: 25.01.2022

Adhir Chandra Tudu & Ors.

...Appellants

-Vs-

Smt. Maku Hembram & Ors.

...Respondents

Present:-

Mr. Soumik Ganguly,
Mr. Dilip Kumar Sadhu, Advocates
... for the Appellant.

Mr. Sougata Mitra,
Mr. Rameswar Sinha,
Ms. Ankita Dey, Advocates
... for the Private Respondents

Mr. Pantu Deb Roy,
Mr. Pannalal Bandyopadhyay, Advocates
... for the State.

Coram: THE HON'BLE JUSTICE PRAKASH SHRIVASTAVA,
CHIEF JUSTICE
THE HON'BLE JUSTICE RAJARSHI BHARADWAJ,
JUDGE

Prakash Shrivastava, CJ:

1. By this appeal, the private respondents in WPA No. 11172 of 2021 have challenged the order of the learned Single Judge whereby the police authorities have been directed to post a police

constable outside the house of the writ petitioner with a further direction that the said officer will maintain a strict vigil around the writ petitioner's premises to ensure that there is no breach of peace and the petitioner's possession is not disturbed and further observed that if after a week the writ petitioner requires any police protection, then the same will be provided at her own cost.

2. Submission of learned Counsel for the appellants is that it is a civil dispute and appellants are co-owners of the property in question and that in the sale deed of the respondent No. 1 (writ petitioner) no house has been shown to be existing, therefore, the learned Single Judge could not have issued such a direction.

3. Learned Counsel for the respondent No. 1 has submitted that the respondent No. 1 is the exclusive owner of the property and there is no document in favour of the appellants and there was a threat, therefore, the writ petition was filed and the property is now properly protected.

4. Having heard the learned Counsel for the parties and on perusal of the record, it is noticed that the respondent No. 1 (writ petitioner) had filed a petition with the plea that she is a scheduled tribe lady and had purchased the property by the sale deed (Annexure "P1") executed in the year 2017. It has been pointed out that the name of the respondent No. 1 is entered in the Record of Rights as exclusive owner. Nothing has been shown by the learned Counsel for the appellants to demonstrate that the appellants have any right on the property in question. In the petition, it was pleaded that the respondents were trying to unauthorizedly destroyed the mud house

constructed by the respondent No. 1 on the land in question and were trying to cut the trees. In this background, learned Single Judge in order to extend protection to the respondent No. 1 has issued the above direction.

5. In the circumstances of the case, we are of the opinion that no error has been committed by the learned Single Judge in passing the impugned order. However, if the appellants have any right, title or interest in the property in question, then they are at liberty to approach the competent Civil Court and established the same. We make it clear that if any such suit is filed by the appellants, then the same will be decided on its own merit without being influenced by any observation made by the learned Single Judge in the impugned order or any observation by this Court in the present order. Accordingly, the appeal along with the application is disposed of.

(PRAKASH SHRIVASTAVA)
CHIEF JUSTICE

(RAJARSHI BHARADWAJ)
JUDGE

Kolkata
25.01.2022

PA(RB)