

S/L 81
21.06.2022
Court. No. 19
GB

WPA 13436 of 2021

Prakash Patwari
VS
The State of West Bengal & Ors.

*Mr. Jayanta Datta,
Mr. Biman Kumar Saha,
Mr. Atanu Mondal.*

...for the Petitioner.

*Mr. Sirsanya Bandopadhyay,
Mr. Arka K. Nag.*

...for the State.

*Mr. Sabyasachi Mukherjee,
Mr. Mukesh Khanna.*

...for the Respondent No.6.

Affidavit-of-service filed in Court today, be kept with record. The police report is also taken on record.

The petitioner alleges that the respondent no.6, who is the security supervisor of Diamond City North, hurled abusive language at the petitioner and his friend and also tried to restrain them from unloading furniture from a truck, which were to be shifted to the flat of the petitioner. Accordingly, a complaint was lodged before the Dum Dum Police Station.

It also appears that proceedings under Section 144(2) of the Code of Criminal Procedure was also initiated by the petitioner.

The police authorities made an enquiry and submitted a prosecution.

The police enquiry revealed that Diamond City North was a residential complex comprising of 989 flats and having approximately 2500 residents. The Residents Welfare

Association maintains the complex. The petitioner's flat is situated on the 3rd floor of Block-26. The petitioner did not pay maintenance charges for six years. To recover the maintenance charges, Title Suit No.919 of 2018 was filed against all the defaulter before the learned Civil Judge (Senior Division), Barasat and the suit is pending.

It is submitted by the petitioner that on the basis of the order of the learned civil court 70% of the dues have been paid.

It appears that two complaints were filed, one by the petitioner and the other by the respondent no.6 before the Dum Dum Police Station.

The Officer-in-Charge, Dum Dum Police Station is of the opinion that the dispute is primarily over the mode of enjoyment of the flat of the petitioner and the non-payment of outstanding dues.

However, as the question of default is a matter which is to be decided by the civil court, this Court is of the view that the police authorities must ensure that unnecessary harassment or harm is not caused to the petitioner in any way.

It is specifically stated by the respondents that neither the respondent no.6 nor the police authorities have put any clamp on the car of the petitioner.

It is made clear that unless the vehicle of the petitioner is an offending vehicle, no such clamp can be placed thereupon.

Accordingly, the writ petition is disposed of.

However, there will be 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.)