

22.07.2022
Court No. 19
Item no.165
CP

W.P.A. No. 12595 of 2022

Shankar Sarkar
Vs.
The State of West Bengal & ors.

Mr. Golam Karim Chowdhury

....for the petitioner.

Mr. Rajarshi Basu
Mr. Parikshit Goswami

....for the State.

Mr. Sukumar Ghosh

....for the respondent no. 9 to 12.

The petitioner alleges that the Inspector-in-Charge, Sandeshkhali Police Station, has failed and neglected to take steps despite several complaints having been lodged by the petitioner. It is alleged that the petitioner is the recorded owner of some lands in Dag Nos. 963, 907 and 884 of Mouza – Jalya Khali. It is alleged that the respondent nos. 9 to 12 have been trying to illegally dispossess the petitioner from his possession, by using force.

The respondent nos. 9 to 12 submit that the property was inherited by the said respondents and they have been cultivating on the same. It is further submitted that a proceeding with regard to correction of the record of rights is pending before the Land Reforms and Tenancy Tribunal. It is also contended

that on similar prayers a previous writ petition had been filed being W.P. No. 14914(W) of 2019. By an order dated August 27, 2019, a coordinate bench of this court had recorded that the police had already acted on the basis of the complaint filed by the petitioner and prosecution under Sections 107 and 116 of the Cr.P.C., had been submitted. The court was of the further view that the dispute being civil in nature, the remedy of the petitioner would be before the appropriate forum.

The police authorities have filed a report. The same is taken on record. It appears that on March 4, 2022, prosecution under Section 107 of the Cr.P.C. was filed against some of the private respondents on the basis of the complaint of the petitioner. The complaint of the petitioner was registered as a General Diary as no cognizable offence had been made out. The allegation of the petitioner was that the respondent nos. 9 to 12 were disturbing the peaceful possession of the petitioner with regard to the lands in question and the said respondents had also entered the land with JCB machines to excavate earth from the said lands.

This court had directed the petitioner to avail of his remedy before the learned civil court. The petitioner, instead of availing of such remedy, has filed complaints before the police in apprehension

that if he may be dispossessed by the respondent nos. 9 to 12.

The police authorities enquired into the matter and finding the allegations similar to those made earlier, submitted a prosecution under Section 107 of the Cr.P.C.

The issue with regard to threat of dispossession, encroachment, title etc. cannot be gone into either by the police authorities or by the writ court. The petitioner is at liberty to avail of his remedy before the appropriate forum.

However, the police authorities shall keep a vigil to ensure that law and order is maintained and parties do not commit further untoward incident.

The writ petition is disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)