

16.08.2022
Court No. 19
Item 405(ML)
CP

WPA No. 13770 of 2021

Jayanta Ghosh
Vs.
The State of West Bengal & ors.

Mr. Sauvik Nandy
...for the petitioner.

Mr. T. M. Siddiqui
Mr. Ram Mohan Paul
....for the State.

The petitioner alleges that the police authorities have not rendered any protection to the petitioner despite the order of the learned Civil Judge (Junior Division), Brrackpore dated December 3, 2018, passed in Title Suit No. 145/2016. By the said order the defendants in the suit (respondent nos. 7 to 11) were directed to remove the construction which was illegally made by the said defendants. Such removal was to be made within a period of 60 days, failing which the plaintiff was granted liberty to remove the same at his own cost.

It is alleged that despite a request having been made before the police authorities for assistance in order to remove the construction, the police authorities failed and neglected to render assistance. Reliance has been placed on a demand of justice written by the learned advocate of the petitioner to

the Chairman, Bhatpara Municipality, the Board of Councilor, Bhatpara Municipality, the Executive Officer, Bhatpara Municipality, the Commissioner of Police, Barrackpore Police Commissionerate and the I.C., Jagatdal Police Station, seeking necessary police assistance in order to remove the pucca structure.

It does not appear from the writ petition that since 2018, the petitioner has raised any objection with regard to the non-cooperation of the police authorities before the learned civil court. It is a matter of evidence as to whether the construction was at all removed by the petitioner or not. The writ petition was filed after almost three years from the date when the order was passed, alleging police inaction. The petitioner's remedy would be to approach the learned civil court for necessary orders as prayed for in this writ petition. The demand of justice filed sometime in July 2021, does not inspire any confidence that the petitioner actually approached the police at the relevant time.

The petitioner alleges that the civil court had directed that if the defendants did not remove the alleged construction, the petitioner would be at liberty to remove the same after expiry of 60 days from the date of the order. The records do not reveal as to how and when the petitioner tried to remove the construction and how he was obstructed. It also does

not reveal that after December, 2018, the police authorities were ever approached by the petitioner for assistance to implement the order of the learned civil court. Whether the order of the learned Civil Judge has been varied, modified or vacated is also not known. The police authorities received a demand of justice and made a general diary.

Under such circumstances, the police authorities shall maintain peace. The reliefs which the petitioner prays before this court for necessary police assistance in order to implement the order of the learned civil court, has to be made before the learned civil court as lot of time has been lapsed in the interim period. The matter has to be decided on evidence.

The writ petition is accordingly disposed of.

The question of right, title, possession of the construction etc. has not been gone into. The police authorities shall comply with the order that may be passed by the civil court in the suit, if approached by the petitioner.

There shall be no order as to costs.

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

(Shampa Sarkar, J.)