

04.08.2022
Court No.19
Monthly List
Item No.54
AP

WPA 12967 of 2022

**Sk. Anawer Hossen and Anr.
Vs.
The State of West Bengal and Ors.**

Mr. Tamal Taru Panda

... For the Petitioners.

Ms. Sweta Mukherjee

Mr. Prantik Garai

... For the State.

Affidavit of service filed in Court today, is taken on record.

The allegation of the petitioners is that the Inspector-in-Charge, Khejuri Police Station failed and neglected to take steps on the basis of the complaint filed by the petitioners. The petitioners are claiming to be the owners of 19 decs. of land in Plot No.622, Mouza Janka, which is a pond.

According to the petitioners, they are exercising fishing rights over such pond and the right, title and interest of the predecessors of the petitioners have been declared by a judgement and decree dated 30th June, 1997 in Title Appeal No.73 of 1994 passed by the learned Civil Judge (Senior Division), 2nd Court, Contai. The right, title and interest of the plaintiffs/predecessor of interest of the petitioners in respect of 19 decs. of Plot No.622 was declared by the civil court. The petitioners claim to be owners through a deed of gift.

The petitioners allege that the respondent Nos.7 and 8 had been disturbing the possession of the petitioners. Complaint had been lodged before the police authorities. The police authorities made an enquiry and came to the conclusion that the petitioners had leased out their portion to one Abanti Jana for a period of one year from January 2022 to December 2023 for a consideration of Rs.25,000/-.

The police authorities interrogated Abanti Jana who stated that he had been using the pond for fishing activities. When he tried to clean up the pond, the respondent Nos.7 and 8 tried to stop him and claimed their share over the entire pond. The respondent Nos.7 and 8 informed Abanti Jana that 19 decs. that had been declared in favour of the petitioners was not restricted to the Plot No.622 alone, but also comprised of parts of Plot Nos.625 and 626. That they also had a share in Plot No. 622. The dispute with regard to the use of the said plot was found to be civil in nature, but the police authorities had enquired into the matter and had ascertained the facts from the lessee.

This Court is not required to investigate into the civil dispute with regard to the ownership and possession of the Plot No.622.

It appears that there was a decree in favour of the petitioners' predecessor in interest and three other plaintiffs. The respondent Nos.7 and 8 may be claiming through the other plaintiffs. Thus, the exclusive right of

the petitioners over the said pond on the basis of a deed of gift cannot be declared by this Court, if there are rival claims to the right, title and possession of the property.

The decree of declaration cannot be executed indirectly through the writ court as it is not an executable decree.

However, the police authorities are directed to maintain peace and tranquility in order to avoid any untoward incident.

With the aforesaid observations, the writ petition is disposed of.

There shall be no order as to costs.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Shampa Sarkar, J.)