

17.08.2022
Sl. No.2(SL)
srm

W.P.A. No. 13259 of 2022
Satya Ranjan Das & Ors.
Versus
The State of West Bengal & Ors.

Mr. Bhaskar Chandra Manna
...for the Petitioners.

Mr. Raja Saha,
Mr. Varun Kothari
...for the State-respondents.

Mr. Supriya Chattopadhyay,
Mr. Sudip Kumar Maiti
...for the Respondent Nos.9 to 13.

The order dated August 4, 2022 be corrected as follows:

The names of the learned Advocates Mr. Supriya Chattopadhyay and Mr. Sudip Kumar Maiti be recorded as the learned Advocates for the respondent Nos.9 to 13.

The department is directed to incorporate the said correction in the order dated August 4, 2022.

The remaining portion of the order remains unaltered.

The petitioners allege inaction of the Officer-in-Charge, Khejuri Police Station. It is the specific contention of the petitioners that the respondent Nos.9 to 13 have been raising an unauthorised construction on a portion of the property exclusively owned and possessed by the petitioners. It is

alleged that the respondent Nos.9 to 13 are antisocial, who are being protected by the police authorities. Under the encouragement of the police authorities, such construction is going on.

Learned Advocate for the respondent Nos.9 to 13 submits that the construction had been made in accordance with law. The petitioner had also constructed his house long ago. That no definite boundaries between the lands of the petitioners and the respondent Nos.9 to 13 exist. The dispute, if any, cannot be decided by the police authorities. His specific contention is that the construction by the said respondents has been restricted to their land and there has been no encroachment at all.

The police report is taken on record. It appears that there has been a long standing dispute between the petitioners and the respondent Nos.9 to 13 over Plot Nos.3421/4965 and 3421/4966 pertaining to Khatian No.1255 of mouza Patna, Police Station-Khejuri, District-Purba Medinipur. On the basis of the complaint received by the police authorities by post, the Officer-in-Charge, Khejuri Police Station assigned ASI Sk. Mafuddin of Henria Investigation Centre to enquire into the matter. Upon enquiry, prosecution under Section 107 of the Code of Criminal Procedure was submitted against Pravat Das

and four others *vide* Khejuri PS NCR No.448 of 2022 dated July 10, 2022, in order to ensure peace and tranquility in the area.

Thus, this Court is of the view that the disputed question of facts with regard to title, interest, possession and encroachment, cannot be decided either by this Court or by the police authorities. Whether the construction is unauthorised or illegal or beyond the permission granted by the competent authority or is in violation of the rules and regulations, are matters to be decided by the appropriate authority.

Under such circumstances, the remedy of the petitioners would be before the competent courts of law as also the competent permission granting authority with regard to the allegations of encroachment and unauthorized construction. It appears that the petitioners have already approached the Pradhan of the concerned gram panchayat and the Block Development Officer, Khejuri-I. Such contention of the petitioners shall be looked into by the competent authority.

The police authorities cannot be directed to demolish the structures raised by the respondent Nos.9 to 13 without there being a determination as to whether the construction was either illegal or beyond the permission granted by the authorities. None of the authorities have asked for police assistance to carry out demolition of the structures.

The writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)