

S/L 90 (ML)
10.08.2022
Court. No. 19
GB

WPA 13675 of 2022

Dilip Kumar Roy
VS
The State of West Bengal & Ors.

*Mr. Tapas Kumar Manna,
Ms. Anindita Majumder.*

...for the Petitioner.

*Mr. Samrat Sen,
Ms. Manali Ali.*

...for the State.

*Mr. Purnendu Das,
Mr. K.K. Baral.*

...for the Respondent Nos.4 & 5.

Affidavit-of-service filed in Court today, be kept with the record.

The learned advocate for the petitioner alleges that although the petitioner is the largest shareholder of M/s. Panagarh Cold Storage Private Limited, the respondent nos.4 to 16 broke into the cold storage and illegally took possession of the cold storage. Thereafter the said respondents along with some antisocial elements affixed a new padlock and took away the keys. The petitioner had been prevented from continuing with the directorship of the said cold storage. It is submitted that the petitioner was badly injured by the said miscreants and he got himself treated at the Panagarh Gramin Hospital.

The learned advocate for the respondent nos.4 and 5 submits that the respondent nos.5 to 8 are the shareholders of the said company and the respondent no.5 is also a director. The respondent nos.9 to 16 are the employees. It is submitted that the possession of the cold storage is under the

other shareholders and not the petitioner. That the petitioner cannot show any evidence with regard to his shareholding. It is further denied that no such incident occurred on March 20, 2022 at the instance of the alleged respondents.

The police report is taken on record. It appears that ASI, Arabinda Bhattacharya attached to Budbud Police Station contacted the parties and asked them to visit the police station with regard to the alleged unsigned complaint, received from the petitioner. They were also asked to produce relevant documents in respect of their shares in the concerned cold storage. Mr. Subrata Adhikary produced some documents of his share, but Mr. Parijat Roy did not produce any document. A requisition was sent to the Block Land and Land Reforms Officer requesting the details of the disputed lands. From the land records it was learnt that the land over which the cold storage had been constructed, belonged to the petitioner. It also appears that MP Case No.1428 of 2021 dated November 29, 2021 was filed before the learned Executive Magistrate, Purba Bardhaman and a sharp vigil had been kept.

During investigation, Mr. Arabinda Bhattacharya visited the cold storage and spoke to the manager, Gadadhar Kumbhakar and other security personnel. The police authorities were intimated that on February 5, 2022 no incident had taken place. The enquiry revealed that on March 20, 2022 a hot altercation had taken place between the parties. The dispute with regard to the possession,

directorship and shareholding of the cold storage, cannot be decided by the police. The police authorities have kept a vigil in order to ensure that no breach of peace takes place and prosecution under Section 107 and 116(3) of the Code of Criminal Procedure has been submitted. It also appears that a civil suit being Title Suit No.29 of 2022 has been filed in the Court of the learned Civil Judge (Senior Division), Durgapur and the same is pending. It also appears that there is an allegation that one Parijat Roy collected the potatoes from the local farmers and issued bonds in the name of 'Nilkhantha Cold Storage' allegedly the new name of 'M/s. Panagarh Cold Storage Private Limited'. The said bonds were allegedly signed by Somnath Karmakar and Panchanan Santra. It appears that on two occasions messages were sent to the petitioner through Kanksa Police Station asking the petitioner to appear before the Officer-in-Charge, Budbud and sign the written complaint. The complaint, which was received at the Budbud police station through post, did not bear the signature of the maker.

The petitioner will appear before the police station and sign the written complaint. Thereafter the police authorities shall act and proceed on the basis of the said complaint and take necessary steps as they may deem fit and proper. The issues with regard to the directorship, title of the land, shareholdings of the parties, etc., shall not be gone into. The only issue that shall be relevant for consideration, is whether on March 20, 2022 the incident as narrated by the petitioner ever took place or not. As there is a civil suit

pending between the parties, the other reliefs prayed for with regard to opening the padlock, etc., shall be decided by the civil court.

As no affidavits have been called for, the allegations are deemed to be denied.

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.)