

S/L 89 (ML)
10.08.2022
Court. No. 19
GB

WPA 13672 of 2022

Kali Kumar Das
VS
The State of West Bengal & Ors.

Mr. Probal Sarkar.

...for the Petitioner.

*Mr. Ashim Kr. Ganguly,
Mr. Bellal Shaikh.*

...for the State.

*Mr. Abhijit Manda,
Mr. Soupal chatterjee.*

...for the Respondent Nos.9, 10, 16, 18 & 19.

*Mr. Arup Kr. Roy,
Mr. Niladri Banerjee,
Mr. Deepankar Thakur.*

...for the Respondent Nos.11 & 12.

Mr. Amit Roy.

...for the Respondent Nos. 17, 20 & 21.

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

The petitioner alleges that the respondent nos.9 to 21 have been illegally obstructing the petitioner's cultivation on certain lands, of which the petitioner is the recorded 'Bargadar'.

The police report is taken on record. It appears that the petitioner approached the learned Civil Judge (Junior Division), Lalbagh, Murshidabad with regard to the lands in question by filing O.S. No.38 of 2022. By an order of the civil court, the defendants were restrained from interfering with the peaceful possession of the petitioner over the lands in question. Rajkumar Roy, son of Late Gobindalal Roy and others filed a proceeding before the learned Additional District Judge, Lalbagh, Murshidabad being Misc. Case No.12 of 2018 and Other Suit No.1 of 2013. With regard to

the alleged dispute, prosecution under Section 107 of the Code of Criminal Procedure has been submitted against the respondent nos.9 to 21. Proceeding under Section 145 of the Code of Criminal Procedure is also pending before the learned Sub-Divisional Magistrate, Lalbagh, Murshidabad and the next date has been fixed on September 19, 2022. It also appears from the police report that with regard to the alleged threat, obstruction and looting of paddy by the respondent nos.9 to 21, Nabagram Police Station Case No.253 of 2022 dated July 13, 2022 under Sections 447/427/379/506/34 of the Indian Penal Code has been registered against one Balai Mandal and six others, and the investigation is going on.

Learned Advocates for the respondent Nos. 9 to 21 submit that the petitioner's remedy would be before the appropriate authority/forum and not before a writ court.

Under such circumstances, this Court directs that the pending investigation shall be concluded in a free and fair manner. The police authorities will keep a sharp vigil in order to ensure that no breach of peace takes place and the order of injunction passed by the learned Civil Judge (Junior Division), Lalbagh, Murshidabad in O.S. No.38 of 2022 is implemented, provided that the said order is still subsisting.

The record of rights indicate that the petitioner is the recorded 'Bargadar'. If there are further violation of the order of injunction, the petitioner shall be at liberty to approach the civil court in accordance with law.

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.)