

04.07.2022
Sl. No.184
srm

W.P.A. No. 12866 of 2019

Akshay Narayan Sahoo

Versus

The State of West Bengal & Ors.

Mr. Manorajnan Jana,

Ms. Mitali Jana

...for the Petitioner.

Mr. Pantu Deb Roy,

Mr. Anand Farmania

...for the State-respondents.

The petitioner prays for execution of an order passed by the learned Sub-Divisional Executive Magistrate in Misc. Case No.90 of 2018. Reliance is placed on the direction upon the Officer-in-Charge, Ramnagar Police Station to restrain the respondent Nos.5 and 6 from creating any disturbance with regard to the petitioner's possession and in the repair works to be undertaken in respect of the shop room. Police help was also granted by the learned Magistrate. A report was directed to be filed. The petitioner claims that the police authorities, pursuant to the aforementioned direction, did not take any steps to grant police protection, for the aforementioned repair work.

The police authorities have filed a report indicating that the respondent Nos.5 and 6 were trying to take possession of the land and the parties were directed to maintain peace and tranquility. The police report is taken on record.

The order sheet of the proceedings, in Misc. Case No.90 of 2018 is annexed to the writ petition. The same reveals that the respondent Nos.5 and 6 have filed a written objection in the said proceedings, inter alia, contending that a civil suit is pending before the learned Civil Judge (Junior Division), Contai and the parties were directed to maintain *status quo* over the suit land, till the disposal of the applications.

It is contended by the petitioner that the shop room is situated on the suit plot, over which the order of *status quo* has been granted by the learned civil court.

Under such circumstances, this Court is of the view that the remedy of the petitioner would be before the learned civil court. Prayer for repairing the shop room, which is situated on the suit plot, must be made before the learned civil court and not before the police authorities.

The police report indicates that pursuant to the complaints over the land dispute, three FIRs were registered, namely, Ramnagar PS Case No.58 of 2018

dated March 31, 2018, Ramnagar PS Case No.328 of 2018 dated December 27, 2018 and Ramnagar PS Case No.330 of 2018 dated December 31, 2018. All these cases have resulted in filing of charge sheets. With regard to the subsequent complaints of the petitioner, the police authorities have entered general diaries and have also submitted prosecution under Section 107 of the Code of Criminal Procedure against the respondent Nos.5 and 6.

Under such circumstances, the allegation of police inaction, is not substantiated. The prayer for grant of police help for repairing and renovating the shop room, which is a part of the suit property, cannot be granted in this case, as neither this Court nor the police authorities are in a position to ascertain the correctness of the allegations of the petitioner with regard to the shop room in question. It is also not clear to the Court as to what order was ultimately passed by the learned Sub-Divisional Executive Magistrate in the proceeding under Section 144(2) of the Code of Criminal Procedure. The petitioner is at liberty to approach the learned civil court with his prayers for repair, if available under the law.

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.)