

17.08.2022
Sl. No.118(ML)
srm

W.P.A. No. 14293 of 2022
Khagendra Nath Barik & Anr.
Versus
The State of West Bengal & Ors.

Mr. Sujit Kumar Rath
...for the Petitioners.

Mr. Subhabrata Datta,
Mr. Banibrata Datta
...for the State-respondents.

Affidavit-of-service is taken on record. Despite service,
none appears on behalf of the respondent Nos.4 to 8.

The petitioners allege inaction on the part of the Officer-in-Charge, Marishda Police Station, District-Purba Medinipur. It is the specific contention of the petitioners that the respondent Nos.4 to 8 started digging a pond on a portion of the land owned and occupied by the petitioners in order to create a water body. It is submitted that when the petitioners objected to such excavation work, the petitioner No.2 was threatened by the said respondents.

The police report is taken on record. Reliance has been placed on an earlier order passed by this Court in WP No.24981(W) of 2013. By an order dated August 27, 2013, this Court had directed the Officer-in-Charge, Mahishda Police

Station to ascertain whether the private respondents had obtained any sanction plan from any competent authority for making a construction at that relevant point of time. The petitioners filed the said writ petition, alleging construction over their land. It was directed that if it was found that the construction was going on with a permission/sanction, the police authorities would not further interfere in the matter and leave the petitioners free to approach the civil forum. If the respondents were unable to produce any sanction plan from the appropriate authority, then the construction undertaken was directed to be stopped by the police authorities.

On the basis of the abovementioned direction, the police authorities enquired into the matter and visited the spot in the presence of both the parties including the petitioners. Independent persons of the locality were also present. On asking, the private respondents produced the sanction plan obtained from the Pradhan, Debendra Gram Panchayat for the alleged construction. During enquiry, it was revealed that there had been a long standing dispute between the parties over the land in question.

On May 24, 2022, the police authorities received the complaint from the petitioner No.1, to the effect that a pond was being excavated on the land in question. The police

authorities enquired and visited the spot. Apprehending breach of peace, prosecution under Section 107 of the Code of Criminal Procedure was submitted against both the parties *vide* Mahishda PS NCR No.460 dated June 27, 2022 and Mahishda PS NCR No.461 dated June 27, 2022. The police authorities have submitted that the disputes between the parties are long standing and civil in nature.

Thus, no further steps are required to be taken by the police authorities, as of now. However, the police shall keep a vigil so that peace is maintained in the locality. The petitioners are at liberty to approach the learned civil court and the competent authority with the allegations of unauthorised encroachment and illegal excavation of land.

The writ petition is, thus, disposed.

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.)