

S/L 130(ML)
17.08.2022
Court. No. 19
GB

WPA 14372 of 2022

Nuruddin Laskar
VS
The State of West Bengal & Ors.

Mr. Pradip Kumar Mondal.

...for the Petitioner.

*Mr. Somnath Ganguli,
Ms. Adreeka Pandey.*

...for the State.

*Mr. Gouranga Kumar Das,
Mr. Kanailal Dutta.*

...for the Respondent Nos.9 to 11.

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

The petitioner alleges that the police authorities of Dholahat Police Station had failed and neglected to take steps on the basis of the complaint lodged by the petitioner dated March 28, 2022. It appears that as the Inspector-in-Charge, Dholaghat Police Station had failed and neglected to take steps, the petitioner approached the Superintendent of Police, Sundarban Police District, for implementation of the order passed by the learned Executive Magistrate, Diamond Harbour. It is alleged that the respondent nos.9 to 11 have been resisting the construction of a dwelling house on Plot No.296 in Mouza-Andharmanik, pertaining to Khatian No.849, measuring about 5.5 decimals.

The learned advocate for the respondent nos.9 to 11 submits that the land is still an undivided property. The petitioner did not have any right to construct without conversion of the land from 'Sali' to 'Bastu'. That no records have been shown indicating that such conversion was made.

That a portion of the alleged construction was on the land belonging to the said respondents. That in the absence of any demarcation of the individual shares of the co-sharers, the construction could not be carried on.

The police authorities have filed a report, from which it appears that there is a land dispute between the parties. The entire plot measures about 46 decimals. Out of which, 5.5 decimals had been recorded in the name of the petitioner. The police authorities were directed by the Sub-Divisional Executive Magistrate, to keep a vigil and ensure that the private respondents, who were the opposite parties in the pending proceeding before the learned Sub-Divisional Magistrate, Diamond Harbour, would not create any disturbance in the construction of the dwelling house. The Block Land and Land Reforms Officer was directed to enquire and file a report. Both the cases filed by the petitioner before the learned Sub-Divisional Magistrate, namely, MF-1957 of 2021 and MF-545 of 2022 are pending. The police authorities served the copy of the order of the learned Magistrate upon the parties and asked them to comply with the same. There is nothing on record to show whether the Block Land and Land Reforms Officer had filed the report or not. It also appeared on enquiry that 5.5 decimals of land was also recorded in the name of one Manowar Hossain Laskar, the respondent No.9 herein, and a construction had been made on the land in question before the petitioner had purchased the said land. The respondent no.9 claims to have purchased the land. However, the police

authorities found that the dispute was with regard to landed property and there were rival claims to title. However, apprehending breach of peace, prosecution was submitted against the respondent nos.9 to 11. The police authorities have also kept a vigil. They have found that at present, no construction is going on. The enquiry revealed that although the land of the petitioner had been demarcated as per the deed, the land of the respondent no.9 had not been properly demarcated, as a result of which, the dispute arose.

It appears that the cases filed by the petitioner under Sections 144 and 147 of the Code of Criminal Procedure are still pending. The Block Land and Land Reforms Officer had been directed to file a report. Thus, parallel proceedings on the self-same cause of action before this Court cannot be entertained. Moreover, the dispute with regard to the title, encroachment, etc., cannot be decided. The police authorities shall keep a strict vigil in order to ensure that peace is maintained and there are no law and order problems. It is made clear that the respondent nos.9 to 11 also do not have any authority to physically obstruct the petitioner from entering the land. Both the parties must approach the appropriate court of law for settlement of the issues.

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.)