

17.08.2022
Sl. No.138(ML)
srm

W.P.A. No. 14430 of 2022
Puspa Jana
Versus
The State of West Bengal & Ors.

Mr. Gouranga Kumar Das
...for the Petitioner.

Mrs. Sipra Majumdar,
Mrs. Prativa Ghatak
...for the State-respondents.

Mr. Dilip Kumar Shayamal,
Mr. Gourab Ghosh,
Mr. Koushik Banerjee
...for the Respondent Nos.5 & 6.

Affidavit-of-service is taken on record.

The petitioner alleges that the Officer-in-Charge, Namkhana Police Station had failed and neglected to assist the petitioner during the repairing work of his house. Allegedly, the house was damaged during Amphan. It is contended that the house had existed for the past 50 years. It is further submitted that the police authorities should restrain the respondent Nos.5 and 6 from objecting to the construction.

Learned Advocate for the respondent Nos.5 and 6 submits that the plot of the land over which the repairing work is sought to be done, belongs to the said respondents.

On the basis of a deed of sale executed sometime in 2008, the said respondents acquired title to a part of the plot.

The police report is taken on record. It appears that the petitioner moved the learned Executive Magistrate, Kakdwip by filing MF Case No.480 of 2022. On receipt of an order, an enquiry was made by the concerned Namkhana Police Station and prosecution under Sections 107 and 116(3) of the Code of Criminal Procedure was submitted. Thereafter, again disputes took place on June 6, 2022 and the petitioner filed a written complaint against the said respondent Nos.5 and 6. Over such complaint, Namkhana Police Station Case No. 156 of 2022 dated June 6, 2022 under Sections 447/323/506/34 of the Indian Penal Code, had been registered. The matter is under investigation. With regard to the subsequent altercation between the parties, prosecution under Sections 107 and 116(3) of the Code of Criminal Procedure has been submitted and the police authorities are keeping a vigil.

Under such circumstances, it appears to the Court that the police authorities had taken adequate steps on the basis of each and every complaint of the petitioner. The further prayer of the petitioner for police help while repairing the house cannot be allowed, as neither this Court

nor the police authorities have any right to permit such construction/repair. Moreover, the land has been classified as '*sali*' in the record of rights and the petitioner has not been able to produce any document to show that the land had been converted to '*bastu*'. Construction on '*sali*' land is not permissible under the law.

The questions of right, title and interest of the parties have not been gone into.

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.)