

18.8.2022
Sl.No.145
sn

WPA 14665 of 2022

**Sk. Robiel Hoque & Anr.
Versus
The State of West Bengal & Ors.**

**Mr. B.L. Sahoo
Mr. Jahangir Badsha
...for the petitioners**

**Ms. Sutapa Sanyal
Mr. Anand Farmania
..for the State**

Despite service, none appears on behalf of the respondent no.5. Let the affidavit of service be taken on record.

The petitioners allege inaction on the part of the Office-in-Charge, Khandaghosh Police Station. It is alleged that despite several complaints having been made against the respondent no.5 with regard to the disturbance created by the said respondent in the petitioners' enjoyment of the property in question, no steps have been taken by the police authorities. It is further alleged that the police authorities did not take any steps despite an order passed by the learned Executive Magistrate, Sadar Purba Bardhaman vide M.P.Case No. 124 of 2022.

The Officer-in-Charge, Khandaghosh Police Station has filed a report in the form of instructions. It appears that S.I. Ritom Sk of Khandaghosh Police Station was directed to enquire into the matter

pursuant to an order passed by the learned Executive Magistrate, Sadar Purba Bardhaman. A spot enquiry was conducted and the enquiry revealed that there was a dispute between the parties in respect of plot nos.2633 under mouza Khudkuri. The petitioner and the respondent no.5 claimed ownership of the property in question. Notices were served upon both the parties and they were directed to maintain peace.

The said report was submitted before the learned Executive Magistrate, Sadar Purba Bardhaman on March 3, 2022 which was received by the learned Court on the same day vide Khandaghosh PS DR no. 683 dated March 3, 2022. After the report was submitted, no further direction had been received by the police authorities from the learned Executive Magistrate, Sadar Purba Bardhaman.

On May 21, 2022, a representation was once again received from the petitioner. S.I. Subodh Garai of Khandaghosh Police Station was directed to enquire into the matter. A spot enquiry was made. The enquiry revealed that the dispute was over about 93 decemals of land which was the paternal property of the petitioners. The father of the petitioners and their uncle late Sk. Samed Ali, amicably partitioned the property about 50 years

ago. The petitioners occupied their portions as per an oral arrangement. Their uncle sold his portion to others. The legal heirs of the uncle demanded partition by meets and bounds, that is, plot-wise partition of their shares. Over such issue, the dispute arose and there was quarrel between the parties.

A prosecution under Section 107 and 116(3) of the Code of Criminal Procedure was submitted against the respondent no.5.

Under such circumstances, this Court does not find that the allegations against the police authorities could be substantiated.

The disputes with regard to the plots in question, have to be decided by the appropriate forum. However, the police authorities shall keep a vigil and maintain peace.

The writ petition is disposed of.

There will be, however, no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)