

S/L 159(ML)
18.08.2022
Court. No. 19
GB

WPA 14883 of 2022

Rabindranath Deshmukh & Anr.
VS
The State of West Bengal & Ors.

Mr. Dyutiman Banerjee.

...for the Petitioners.

*Sk. Md. Galib,
Mr. Gourav Das.*

...for the State.

*Mr. Keshab Chandra Das,
Mr. Biplab Adak.*

...for the Respondent No.4.

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

The petitioners allege inaction of the Officer-in-Charge, Dhaniakhali Police Station. According to the petitioner, the respondent no.4 had been disturbing the petitioners' possession in respect of the property situated on L.R. Dag No.47 in Mouza-Alipur, pertaining to Khatian No.331 measuring about 219 decimals. The allegation is that the petitioners became joint owners of the land in question after the death of one Amiyabala Patra. Amiyabala Patra and Nabakumar Bag got their title in respect of the property in question from one Panchubala Patra. The respondent no.4 claimed to have obtained the property on the basis of the will executed by Panchubala Patra. According to the petitioners, the probate case filed by the respondent no.4 was dismissed.

It appears that being aggrieved by the disturbance created by the respondent no.4, the petitioners had filed Title Suit No.134 of 2002 before the learned Civil Judge (Junior Division), 1st Court at Hooghly. The suit was dismissed. Title

Appeal No.173 of 2006 was filed and the title appeal was allowed on contest. The petitioners were declared to be the absolute owner of the suit property. The respondents were restrained by way of permanent injunction from interfering with the peaceful possession of the suit property. The said order was challenged by the respondents in the second appeal being SAT 441 of 2017 and the same was dismissed for default on November 28, 2019.

The learned advocate for the respondent no.4 submits that with regard to the self-same property, Title Suit No.266 of 2013 was filed before the learned Civil Judge (Junior Division), 1st Court, Hooghly at Chinsurah against the respondent no.4 and as such, the claim of the petitioner with regard to the right, title and interest of the said plot, is a matter to be adjudicated in the civil suit.

The police authorities have filed a report. It appears that the police authorities have also made an enquiry and have come to know that Title Suit No.266 of 2013 and the pending second appeal, had both been dismissed for default.

Under such circumstances, in view of the dispute with regard to the title, possession, etc., this Court cannot pass any order directing the police authorities to take further steps in the matter. It is submitted that the investigating authority is the Gurap Police Station and not the Dhaniakhali Police Station as wrongly impleaded by the petitioner. The Officer-in-Charge, Gurap Police Station shall ensure that peace is maintained and no untoward incident takes place.

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.)