

04. 18.08.2022
Ct. No.19
Tanmoy

W.P.A. 15204 of 2022

**Dilip Giri
-Versus-
The State of West Bengal & Ors.**

Mr. Sridhar Chandra Bagari, Adv.

...for the petitioner.

Mr. Asish Kumar Guha, Adv.,
Mr. Joyak Gupta, Adv.

...for the State respondents.

Affidavit of service is taken on record.

The petitioner alleges inaction on the part of the Officer-in-Charge of Patharpratima police station. It is the specific contention of the petitioner that the respondents nos. 9 to 15 have been disturbing the cultivation of the petitioner. The petitioner has been deprived of his only source of livelihood. Further allegation is that the respondents nos. 9 to 15, under the encouragement of the local political party and the police authority, had obstructed such cultivation.

Reliance is placed on a report filed by the Revenue Inspector in MF Case No. 765/2019 in a proceeding initiated by the petitioner under Section 144(2) of the Code of Criminal Procedure, 1973. The fact that the petitioner was the registered owner of the said lands and was cultivating on the same, has been recorded in such report. On receipt of the order passed in the proceedings before the learned Sub-Divisional Magistrate, Kakdwip, a field

enquiry was made by the police authority and it transpired that sometime in 2019, an altercation had taken place between the petitioner and the respondents nos. 9 to 15 with regard to cultivation on the land. Such altercation was allegedly due to political differences and personal grudge between the parties.

The police report, however, reveals that respondents nos. 9 to 15 did not restrain the petitioner in the cultivation. The respondents nos. 9 to 15 stated before the police authority that they did not have any objection if the petitioner cultivated his own land. It has also transpired that the petitioner had filed a complaint case against the respondents nos. 9 to 15 before the learned Additional Chief Judicial Magistrate, Kakdwip Court being C-Case No. 128/2020. The petitioner is unable to produce any document with regard to the progress of the case or whether any order has been passed, although with the selfsame allegations another complaint was filed before the police authorities, which have given rise to the writ petition.

The police authority, anticipating breach of peace, submitted a prosecution under Section 107 of the Code of Criminal Procedure, 1973 against the respondents nos. 9 to 15. Hence, the enquiry does not reveal that the respondents nos. 9 to 15 had obstructed in the petitioner's cultivation.

The police authority shall keep a vigil and ensure that law and order is maintained. The complaint case shall proceed in accordance with law and the issues which have been raised in the said complaint case, being similar to those raised here, no further order with regard to such issues need to be passed in this proceeding. It is the specific finding of the police authority on enquiry, that the petitioner is not being disturbed in his cultivation work. Restoration of possession and a direction that the petitioner must be allowed to cultivate, would amount to determination of the title and this court cannot pass such orders.

Neither the writ Court, nor the police authority can decide the other issues with regard to the right, title, interest and possession of the land in question. The remedy of the petitioner before the appropriate forum is kept open. The police authorities shall keep a vigil and maintain peace.

The writ petition being W.P.A. 15204 of 2022 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.)