

10.01.2022
Court No.13
Item No.42
AP

WPA 16605 of 2021

**Manwara Begam
Vs.
State of West Bengal and Ors.**

(Through Video Conference)

Mr. Hareram Singh

... For the Petitioner.

Mr. Asish Kumar Guha
Mr. Joyak Gupta

... For the State.

Affidavit of service filed in Court today is taken on record.

Despite service of notice, the private respondents are not represented.

The writ petitioner complains that the private respondents, who are in occupation of a particular property situated at Mouja Chakmir, JL No.8, RS No.169, LR Dag No.600, Police Station Maheshtala, under Maheshtala Municipality, District South 24-Parganas are preventing the writ petitioner from constructing a building thereat.

The writ petitioner claims to have obtained a sanction plan from the Maheshtala Municipality. It is further submitted that there is inaction despite a complaint with the Inspector-in-Charge, Maheshtala Police Station.

Learned counsel for the State has produced a report in the form of an instructions dated 14th November 2021 issued by the Inspector-in-Charge, Maheshtala Police Station addressed to the learned Government Pleader and the same is taken on record.

It appears from the instructions that the said land has changed hands from time to time. The writ petitioner has purchased the subject property to without taking possession.

The private respondents are in possession of the said property and are stated to have indicated that they will vacate the property only upon receipt of a subsidy. It appears from such report that the private respondents are in possession of the suit property. Learned counsel for the writ petitioner, however, disputes the same. It is submitted that it is his client who is in possession of the property and the private respondents are creating obstruction thereto.

This Court cannot decide as to who exactly in possession of the property. The matter falls within the realm of a civil court's jurisdiction to ascertain possession and pass appropriate orders.

For the aforesaid reasons, no relief can be granted to the writ petitioner in the instant proceedings.

The Inspector-in-Charge, Maheshtala Police Station shall, however, ensure that there is absolutely no

breach of peace in the area and shall maintain continuous vigil thereat.

With the aforesaid observations, the writ petition is disposed of.

There shall be no order as to costs.

Since the report of the Maheshtala Police Station has not been challenged by the writ petitioner, it shall not be binding on the writ petitioner in civil proceedings.

A copy of the aforesaid report may, however, be furnished to the learned counsel for the writ petitioner.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)