

08.09.2022
Court No.13
Item No.37
pk

WPA 16063 of 2022

Md. Habibur Rahaman Khan
Vs.
The State of West Bengal and others

Mr. Jahar Lal Ray,
Ms. Kavita Rani

...for the petitioner

Mr. Jaydip Basu,
Mr. Sugata Mukhopadhyay

... for the private respondents.

The writ petitioner claims that the private respondents are preventing him from effecting construction over a property. It is submitted that the private respondents had moved the civil court seeking pre-emption under the provisions of West Bengal Land Reforms Act, 1955. Initially an order of injunction was passed and subsequently the same was vacated.

The petitioner has lodged a complaint with the Bakultala Police Station under the Baruipur Police District, but in vain. The petitioner relies upon a decision of the Supreme Court in the case of **P. R. Murlidharan and others Vs. Swami Dharmananda Theertha Padar** reported in **(2006) 4 SCC 501**.

The ordinary remedy of the petitioner against any inaction by the police, is to complain to the Superintendent of Police and thereafter, if there is still no action taken, move the Judicial Magistrate under Section 156(3) of the Cr. P. C. In the instant case, it is

seen that the petitioner claims that the private respondents are interfering with civil rights in respect of the property.

The petitioner has obtained sanction plan from the local panchayet and was effecting construction which is being interrupted by the private respondents.

The private respondents are alleged to be interfering with the civil rights of the petitioner in respect of the property and enjoyment thereof. The petitioner ought to seek a suitable injunction from the civil court. The decision of **P. R. Murlidharan(supra)** was relied upon by the petitioner is a case where enforcement of an order of civil court was sought before a writ court. The facts of the said case are substantially different from the instant case. The said decision, therefore, cannot come to the aid of the petitioner.

In the aforesaid circumstances, the petitioner may take steps as he may be advised in law based on the observations made herein above.

The writ petition is disposed of.

There will be no order as to costs.

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

(Rajasekhar Mantha, J.)