

November 23, 2022
AD-11
Court No.1
SG

MAT 1207 of 2022
with
CAN 1 of 2022
CAN 2 of 2022

Gobinda Pramanik and another
vs.
The State of West Bengal and others

Mr. Jayanta Samanta,
Ms. Mausumi Mitra,
Mr. Maidul Islam, Advocates
... for the appellants

Ms. Chaitali Bhattacharya,
Ms. Sanjukta Samanta, Advocates
... for the State

Ms. Priti Jain, Advocate
... for the respondent No.7

Since there is a delay of 16 days in filing this appeal, CAN 2 of 2022 has been filed seeking condonation of delay.

Having regard to the submission of learned counsel for the appellants and the plea taken in the application for condonation of delay, we find that the delay has appropriately been explained and the appellants were prevented from filing this appeal on account of bona fide reasons. Hence, CAN 2 of 2022 is allowed.

This intra-court appeal is at the instance of the writ petitioners challenging the order of learned Single Judge dated 08.06.2022 whereby WPA 20504 of 2021 has been disposed of with certain directions.

The appellants had filed the writ petition claiming right over the land in question and also claiming that they

are in peaceful possession of the said ancestral property and alleging that respondents are interfering with the same.

In the writ petition, a prayer was made seeking a direction to the police authorities to extend protection to the appellants in terms of the order of the executive magistrate in the criminal proceedings.

Learned Single Judge has duly considered the issue and has taken into account the rival contentions and it is noticed that the dispute is over some land and NCR 438 of 2021 dated August 20, 2021 has been submitted against the appellants and respondent Nos.7 to 9 with a direction upon them to maintain peace and tranquility in the area in question.

Learned Single Judge has been pleased to note that the writ remedy cannot be used for executing the order of the magistrate. Considering the circumstances of the case, a direction has been issued to the police authorities to keep vigil over the disputed property in question,

Submission of learned counsel for the appellants is that the respondent Nos.7 to 9 are threatening to interfere in possession of the appellants and not allowing them to cultivate the land, therefore the action is required against them.

Learned counsel for the State has submitted that the dispute is private in nature.

Having heard learned counsel for the parties and on perusal of the record, it is noticed that the appellants and the private respondents are co-sharers and the dispute is going on since 2014. Record further reflects that Title Suit Nos.300 of 2014 and 211 of 2015 have already been filed before the Civil Judge (Sr. Div.), Diamond Harbour, South 24 Parganas in which the order has been passed by learned Civil Judge for maintenance of the status quo. Once the dispute is pending before the civil court and the order of status quo is passed then in case of any breach of that order, the appellants have remedy under the CPC to file an appropriate application in the pending suit. So far as the issue of maintenance of peace is concerned, learned Single Judge has already issued requisite direction in this regard.

Hence, we find no illegality in the order of learned Single Judge and no ground is made out to interfere in the said order in the appeal.

Accordingly, the appeal is disposed of.

(Prakash Shrivastava, C.J.)

(Rajarshi Bharadwaj, J.)