

01.12.2022.
Court No.13
Item No. 10
ap

W.P.A. No. 16718 of 2019

**Sujay Sarkar & Ors.
Versus
State of West Bengal & Ors.**

Mr. Tulsidas Ray,
Mr. Tapan Ray,
Mr. Tirthankar Ray.

...For the petitioners.

Mr. Santanu Kumar Mitra,
Mr. Mirza Kamruddin.

...For the State.

The petitioners seek transfer of investigation into Ghola Police Station Case No. 265 of 2019 and Ghola Police Station Case No. 266 of 2019 both dated 10th July, 2019.

The petitioners also complain that they were physically tortured when they went to lodge a complaint dated 17th June, 2019.

It appears from the instructions of the State that a number of FIRs were registered on a complaint filed by the petitioners and the private respondents against each other. The said cases are Ghola Police Station Case No. 172 of 2019 dated 08.05.2019 under Sections 379/506/34 of Indian Penal Code and Ghola Police Station Case No. 331 of 2019 dated 04.08.2019 under Sections 341/325/308/354/506/34 of the Indian Penal Code, Ghola Police Station Case No. 116 of 2019 dated 28.03.2019 under Sections 341/325/307/34 of the Indian Penal Code and Ghola

Police Station Case No. 265 of 2019 dated 10.07.2019 and Ghola Police Station Case No. 266 of 2019 dated 10.07.2019. There is also an FIR registered with the Baranagar Police Station. There is a charge-sheet filed in the matter.

The entire disputes between the petitioners and the private respondents are that in connection with the control of water body called “Asharam Zheel”. There are two civil suits pending being Title Suit No. 359 of 2003 in the Court of the Civil Judge (Senior Division) 1st Court, Barasat and Title Suit No. 295 of 2019 pending before the learned Civil Judge (Junior Division), 2nd Court, Barrackpore.

This Court is of the view that the title and control of concerned water body should be decided in the civil suits in question.

Counsel for the State also submits that contradictory orders have been passed by the Civil Courts in this regard.

This Court is of the view that the petitioners may apply under the Code of Civil Procedure for transfer of two suits to one Civil Court. Investigation of the pending FIR must be completed as expeditiously as possible, if not already done.

Officer-in-charge, Ghola Police Station shall, however, ensure that there is absolutely no breach of peace in the area.

With the aforesaid directions, the instant writ petition shall stand disposed of.

There will be no order as to costs.

All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)