

22.06.2022
Sl. No.119
srm

W.P.A. No. 18943 of 2021

Debasis Jana & Anr.

Versus

The State of West Bengal & Ors.

Mr. Amal Baran Chatterjee,
Mr. Bhaskar Chandra Manna

...for the Petitioners.

Mr. Subhabrata Datta,
Mr. Banibrata Datta

...for the State-respondents.

Mr. Uttam Kumar Bhattacharya

...for the Respondent No.7.

Mr. Soumen Kumar Dutta

...for the Respondent Nos.10 to 16.

The petitioners allege that the respondent Nos.10 to 16 have physically obstructed the petitioners from continuing their business from Plot No.938, Mouza-Lauda, District-Purba Medinipur, which was leased out to the petitioners by the Purba Medinipur Zilla Parishad. The factum of such lease is accepted by the said zilla parishad. The zilla parishad submits that although the lease expired, the petitioners are still in possession.

It is submitted by Mr. Chatterjee, learned Senior Advocate appearing on behalf of the petitioners, that rent is being accepted by the zilla parishad even after expiry of the lease. The petitioners have become tenants by holding over. Reliance is

placed on a communication of the Karmadaksha, Bon-O-Bhumi Sanskar Sthayee Samiti of the Purba Medinipur Zilla Parishad, by which the Officer-in-Charge, Marishda Police Station was requested to render police assistance to the petitioners so that the obstructions made by the respondent Nos.10 to 16 could be removed.

Mr. Dutta, learned Advocate appearing on behalf of the respondent Nos.10 to 16/villagers, submits that the lease had expired long time ago. The petitioners constructed permanent brick structures, which was contrary to the terms and conditions of the lease. The petitioners were only permitted to make 'pucca' construction upto the plinth level and only a tin shed roof was permitted. A single storey was allowed. The documents of permission, which have been annexed to the writ petition, are forged. It is further submitted that the construction is over a nayanjali which has blocked the entire drainage system in the locality.

The police authorities have filed a report, from which it appears that on receipt of the complaints from the zilla parishad as also from the petitioners, an enquiry was made. Apprehending tension in the locality and in order to prevent breach of peace, prosecution under Section 107 of the Code of Criminal Procedure was submitted. It also appears that there was a complaint against the petitioners for commission of a

cognizable offence and Marishda PS Case No.288/21 dated November 19, 2021 under Sections 448/341/323/325/307/354/427/506/34 of the Indian Penal Code has been registered. The investigation is complete and the charge sheet has been filed being Marishda PS Charge Sheet No.233/21 dated November 28, 2021 under Sections 448/341/323/354/427/506/34 of the Indian Penal Code against the FIR named accused persons. The petitioners surrendered before the learned jurisdictional Magistrate and were released on bail.

Having considered the rival contentions of the parties, this Court is of the view that the police authorities must ensure that the villagers do not create any disturbance to the petitioners. However, if there is any complaint by the competent authority of the Purba Medinipur Zilla Parishad before the police authorities with regard to the alleged construction, the police authorities are at liberty to take further steps. The allegations of the respondent Nos.10 to 16 with regard to forgery, etc. are to be decided in a separate proceeding and before other fora. The respondent Nos.10 to 16 are at liberty to approach all the appropriate authorities with the allegations against the petitioners and the alleged construction, but the respondent Nos.10 to 16 villagers, cannot take the law in their own hands. The zilla parishad being an authority under Article 12 of the Constitution of India must

ensure that the drainage system in the locality is not blocked by the alleged constructions of the petitioners.

This order shall not prevent the appropriate authorities from acting and proceeding against such construction, in accordance with law.

The writ petition is, thus, disposed of.

There will be no order as to costs.

All parties are to act on the basis of the server copy of this order.

(Shampa Sarkar, J.)