

29.08.2022
Court No. 19
Item 525 (ML)
CP

WPA No. 20827 of 2021

Fojlur Rahaman
Vs.
The State of West Bengal & ors.

Mr. Ziaul Haque
Mr. Himadri Kumar Mahata
...for the petitioner.

Ms. Amrita Panja Moulick
....for the State.

Mr. Arindam Chattopadhyay
Ms. Lipika Chatterjee
....for the respondents 3 to 6.

The allegation of police inaction cannot be entertained.

The petitioner is a co-sharer in respect of Dag No. 4111 corresponding to Sabek Dag No. 3230. It appears that the petitioner is the recorded owner of .0413 acres, in the said plot. There are as many as 28 co-sharers. The petitioner prays that an order be passed, directing the police authorities to assist the petitioner in demarcating his portion by construction of a fence. An order passed by the learned Executive Magistrate is relied upon.

Mr. Chattopadhyay, learned advocate appears for the respondent nos. 3 to 6. He submits that

without proper demarcation, the fencing cannot be allowed. That the petitioner had filed a suit for partition in 1998, against the predecessor-in-interest of the respondent nos. 3 to 6. The said suit was dismissed on December 23, 2016, as the petitioner and his brother who were plaintiffs in the said suit, had failed to take steps.

The police authorities also reiterated the same facts, by filing a report. The report is kept on record.

Under such circumstances, the petitioner is at liberty to approach the appropriate authority under the West Bengal Land Reforms Act for demarcation of his portion. If such approach is made, the demarcation shall be made in the presence of the other co-sharers. The police authorities do not have a role to play.

As no affidavits have been called for, the allegations against the respondents are deemed to have been denied.

The writ petition is accordingly disposed of.

There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)